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STATUTES OF CALIFORNIA

AND DIGESTS OF MEASURES

1993

Constitution of 1879 as Amended

Measures Submitted to Vote of Electors,
Special Statewide Election, November 2, 1993

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

1993–94 Regular Session

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(c) The announcements required to be made in open session pursuant to this section may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing the announcements.

SEC. 16. Section 54959 of the Government Code is amended to read:

54959. Each member of a legislative body who attends a meeting of that legislative body where action is taken in violation of any provision of this chapter, with wrongful intent to deprive the public of information to which it is entitled under this chapter, is guilty of a misdemeanor.

SEC. 17. Section 54960 of the Government Code is amended to read:

54960. (a) The district attorney or any interested person may commence an action by mandamus, injunction or declaratory relief for the purpose of stopping or preventing violations or threatened violations of this chapter by members of the legislative body of a local agency or to determine the applicability of this chapter to actions or threatened future action of the legislative body, or to determine the validity under the laws of this state or of the United States of any rule or action by the legislative body to penalize or otherwise discourage the expression of one or more of its members, or to compel the legislative body to tape record its closed sessions as hereinafter provided.

(b) The court in its discretion may, upon a judgment of a violation of Section 54956.7, 54956.8, 54956.9, 54956.95, 54957, or 54957.6, order the legislative body to tape record its closed sessions and preserve the tape recordings for the period and under the terms of security and confidentiality the court deems appropriate.

(c) (1) Each recording so kept shall be immediately labeled with the date of the closed session recorded and the title of the clerk or other officer who shall be custodian of the recording.

(2) The tapes shall be subject to the following discovery procedures:

(A) In any case in which discovery or disclosure of the tape is sought by either the district attorney or the plaintiff in a civil action pursuant to Section 54959, 54960, or 54960.1 alleging that a violation of this chapter has occurred in a closed session which has been recorded pursuant to this section, the party seeking discovery or disclosure shall file a written notice of motion with the appropriate court with notice to the governmental agency which has custody and control of the tape recording. The notice shall be given pursuant to subdivision (b) of Section 1005 of the Code of Civil Procedure.

(B) The notice shall include, in addition to the items required by Section 1010 of the Code of Civil Procedure, all of the following:

(i) Identification of the proceeding in which discovery or disclosure is sought, the party seeking discovery or disclosure, the date and time of the meeting recorded, and the governmental

agency which has custody and control of the recording.

(ii) An affidavit which contains specific facts indicating that a violation of the act occurred in the closed session.

(3) If the court, following a review of the motion, finds that there is good cause to believe that a violation has occurred, the court may review, in camera, the recording of that portion of the closed session alleged to have violated the act.

(4) If, following the in camera review, the court concludes that disclosure of a portion of the recording would be likely to materially assist in the resolution of the litigation alleging violation of this chapter, the court shall, in its discretion, make a certified transcript of the portion of the recording a public exhibit in the proceeding.

(5) Nothing in this section shall permit discovery of communications which are protected by the attorney-client privilege.

SEC. 18. Section 54960.1 of the Government Code is amended to read:

54960.1. (a) The district attorney or any interested person may commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that an action taken by a legislative body of a local agency in violation of Section 54953, 54954.2, 54954.5, 54954.6, or 54956 is null and void under this section. Nothing in this chapter shall be construed to prevent a legislative body from curing or correcting an action challenged pursuant to this section.

(b) Prior to any action being commenced pursuant to subdivision (a), the district attorney or interested person shall make a demand of the legislative body to cure or correct the action alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, or 54956. The demand shall be in writing and clearly describe the challenged action of the legislative body and nature of the alleged violation.

The written demand shall be made within 90 days from the date the action was taken unless the action was taken in an open session but in violation of Section 54954.2, in which case the written demand shall be made within 30 days from the date the action was taken. Within 30 days of receipt of the demand, the legislative body shall cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct or inform the demanding party in writing of its decision not to cure or correct the challenged action. If the legislative body takes no action within the 30-day period, the inaction shall be deemed a decision not to cure or correct the challenged action, and the 15-day period to commence the action described in subdivision (a) shall commence to run the day after the 30-day period to cure or correct expires. Within 15 days of receipt of the written notice of the legislative body's decision to cure or correct, or not to cure or correct, or within 15 days of the expiration of the 30-day period to cure or correct, whichever is earlier, the demanding party shall be required to commence the

action pursuant to subdivision (a) or thereafter be barred from commencing the action.

(c) An action taken that is alleged to have been taken in violation of Sections 54953, 54954.2, 54954.5, 54954.6, and 54956 shall not be determined to be null and void if any of the following conditions exist:

(1) The action taken was in substantial compliance with Sections 54953, 54954.2, 54954.5, 54954.6, and 54956.

(2) The action taken was in connection with the sale or issuance of notes, bonds, or other evidences of indebtedness or any contract, instrument, or agreement thereto.

(3) The action taken gave rise to a contractual obligation, including a contract let by competitive bid other than compensation for services in the form of salary or fees for professional services, upon which a party has, in good faith and without notice of a challenge to the validity of the action, detrimentally relied.

(4) The action taken was in connection with the collection of any tax.

(5) Any person, city, city and county, county, district, or any agency or subdivision of the state alleging noncompliance with subdivision (a) of Section 54954.2, Section 54956, or Section 54956.5 because of any defect, error, irregularity, or omission in the notice given pursuant to those provisions had actual notice of the item of business at least 72 hours prior to the meeting at which the action was taken if the meeting was noticed pursuant to Section 54954.2, or 24 hours prior to the meeting at which the action was taken if the meeting was noticed pursuant to Section 54956, or prior to the meeting at which the action was taken if the meeting is held pursuant to Section 54956.5.

(d) During any action seeking a judicial determination pursuant to subdivision (a) if the court determines, pursuant to a showing by the legislative body that an action alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, or 54956 has been cured or corrected by a subsequent action of the legislative body, the action filed pursuant to subdivision (a) shall be dismissed with prejudice.

(e) The fact that a legislative body takes a subsequent action to cure or correct an action taken pursuant to this section shall not be construed or admissible as evidence of a violation of this chapter.

SEC. 19. Section 54961 of the Government Code is amended to read:

54961. (a) No legislative body of a local agency shall conduct any meeting in any facility that prohibits the admittance of any person, or persons, on the basis of race, religious creed, color, national origin, ancestry, or sex, or which is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase. This section shall apply to every local agency as defined in Section 54951.

(b) No notice, agenda, announcement, or report required under

this chapter need identify any victim or alleged victim of tortious sexual conduct or child abuse unless the identity of the person has been publicly disclosed.

SEC. 20. Section 54962 of the Government Code is amended to read:

54962. Except as expressly authorized by this chapter, or by Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code as they apply to hospitals, no closed session may be held by any legislative body of any local agency.

SEC. 21. Section 1461 is added to the Health and Safety Code, to read:

1461. Notwithstanding any other provisions of law, the board of directors of any hospital subject to this chapter may order that any hearings on the reports of hospital medical audit or quality assurance committees be held in closed session. An applicant or medical staff member whose staff privileges are the direct subject of a hearing may request a public hearing. Deliberations of the board of directors in connection with matters pertaining to these hearings may be held in closed session.

SEC. 22. This bill shall become operative only if Senate Bill 1140 and Assembly Bill 1426 of the 1993–94 Regular Session of the Legislature are chaptered and become operative.

SEC. 23. This act shall become operative on April 1, 1994.

SEC. 24. 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.

However, notwithstanding Section 17160 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 costs 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 1138

An act to amend Section 35145.5 of the Education Code, and to amend Sections 54952, 54952.3, 54952.7, 54957.6, 54961, and 54962 of, and to repeal Sections 36808, 54951.1, 54951.7, 54952.2, 54952.3, and 54952.5 of, the Government Code, relating to open meetings.

[Approved by Governor October 10, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 35145.5 of the Education Code is amended to read:

35145.5. It is the intent of the Legislature that members of the public be able to place matters directly related to school district business on the agenda of school district governing board meetings, and that members of the public be able to address the board regarding items on the agenda as such items are taken up. Governing boards shall adopt reasonable regulations to insure that this intent is carried out. Such regulations may specify reasonable procedures to insure the proper functioning of governing board meetings.

This subdivision shall not preclude the taking of testimony at regular meetings on matters not on the agenda which any member of the public may wish to bring before the board, provided that, except as authorized by Section 54954.2 of the Government Code, no action is taken by the board on those matters at the same meeting at which the testimony is taken. Nothing in this paragraph shall be deemed to limit further discussion on the same subject matter at a subsequent meeting.

SEC. 2. Section 36808 of the Government Code is repealed.

SEC. 2.3. Section 54951.1 of the Government Code is repealed.

SEC. 2.5. Section 54951.7 of the Government Code is repealed.

SEC. 3. Section 54952 of the Government Code is amended to read:

54952. As used in this chapter, "legislative body" means:

(a) The governing body of a local agency or any other local body created by state or federal statute.

(b) A commission, committee, board, or other body of a local agency, whether permanent or temporary, decisionmaking or advisory, created by charter, ordinance, resolution, or formal action of a legislative body. However, advisory committees, composed solely of the members of the legislative body which are less than a quorum of the legislative body are not legislative bodies, except that standing committees of a legislative body, irrespective of their composition, which have a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body are legislative bodies for purposes of this chapter.

(c) A board, commission, committee, or other multimember body that governs a private corporation or entity that either:

(1) Is created by the elected legislative body in order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation or entity.

(2) Receives funds from a local agency and the membership of whose governing body includes a member of the legislative body of the local agency appointed to that governing body by the legislative body of the local agency.

(d) The lessee of any hospital the whole or part of which is first leased pursuant to subdivision (p) of Section 32121 of the Health and Safety Code after January 1, 1994, where the lessee exercises any material authority of a legislative body of a local agency delegated to it by that legislative body whether the lessee is organized and operated by the local agency or by a delegated authority.

SEC. 4. Section 54952.2 of the Government Code is repealed.

SEC. 5. Section 54952.3 of the Government Code is repealed.

SEC. 6. Section 54952.5 of the Government Code is repealed.

SEC. 7. Section 54952.7 of the Government Code is amended to read:

54952.7. A legislative body of a local agency may require that a copy of this chapter be given to each member of the legislative body and any person elected to serve as a member of the legislative body who has not assumed the duties of office. An elected legislative body of a local agency may require that a copy of this chapter be given to each member of each legislative body all or a majority of whose members are appointed by or under the authority of the elected legislative body.

SEC. 8. Section 54957.6 of the Government Code is amended to read:

54957.6. (a) Notwithstanding any other provision of law, a legislative body of a local agency may hold closed sessions with the local agency's designated representatives regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits of its represented and unrepresented employees, and, for represented employees, any other matter within the statutorily-provided scope of representation. Closed sessions of a legislative body of a local agency, as permitted in this section, shall be for the purpose of reviewing its position and instructing the local agency's designated representatives. Closed sessions, as permitted in this section, may take place prior to and during consultations and discussions with representatives of employee organizations and unrepresented employees.

For the purposes enumerated in this section, a legislative body of a local agency may also meet with a state conciliator who has intervened in the proceedings.

(b) For the purposes of this section, the term "employee" shall include an officer or an independent contractor who functions as an officer or an employee, but shall not include any elected official,

member of a legislative body, or other independent contractors.

Closed sessions held pursuant to this section shall not include discussions of a local agency's available funds, funding priorities, or budget.

SEC. 9. Section 54961 of the Government Code is amended to read:

54961. No legislative body of a local agency shall conduct any meeting in any facility that prohibits the admittance of any person, or persons, on the basis of race, religious creed, color, national origin, ancestry, or sex, or which is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase. This section shall apply to every local agency as defined in Section 54951.

SEC. 10. Section 54962 of the Government Code is amended to read:

54962. Except as expressly authorized by this chapter, or by Sections 32106 and 32155 of the Health and Safety Code as they apply to hospital districts, or by any provision of the Education Code pertaining to school districts and community college districts, no closed session may be held by any legislative body of any local agency.

SEC. 11. This act shall become operative only if Senate Bill 36 and Assembly Bill 1426 of the 1993–94 Regular Session of the Legislature are chaptered and become operative.

SEC. 12. This act shall become operative on April 1, 1994.

SEC. 13. 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 1139

An act to amend Sections 12020, 12071, and 12285 of the Penal Code, relating to firearms.

[Approved by Governor October 10, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 12020 of the Penal Code is amended to read:

12020. (a) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun or wallet gun, any plastic firearm, any firearm which is not immediately recognizable as a firearm, any camouflaging firearm container, any ammunition which contains or consists of any fléchette dart, any bullet containing or carrying an explosive agent, any ballistic knife, any multiburst trigger activator, any nunchaku, any short-barreled shotgun, any short-barreled rifle, any metal knuckles, any belt buckle knife, any leaded cane, any zip gun, any shuriken, any unconventional pistol, any lipstick case knife, any cane sword, any shobi-zue, any air gauge knife, any writing pen knife, or any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sap, or sandbag, or who carries concealed upon his or her person any explosive substance, other than fixed ammunition or who carries concealed upon his or her person any dirk or dagger shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison. A bullet containing or carrying an explosive agent is not a destructive device as that term is used in Section 12301.

(b) Subdivision (a) does not apply to any of the following:

(1) The sale to, purchase by, or possession of short-barreled shotguns or short-barreled rifles by police departments, sheriffs' offices, marshals' offices, the California Highway Patrol, the Department of Justice, or the military or naval forces of this state or of the United States for use in the discharge of their official duties or the possession of short-barreled shotguns and short-barreled rifles by regular, salaried, full-time members of a police department, sheriff's office, marshal's office, the California Highway Patrol, or the Department of Justice when on duty and the use is authorized by the agency and is within the course and scope of their duties.

(2) The manufacture, possession, transportation or sale of short-barreled shotguns or short-barreled rifles when authorized by the Department of Justice pursuant to Article 6 (commencing with Section 12095) of this chapter and not in violation of federal law.

(3) The possession of a nunchaku on the premises of a school which holds a regulatory or business license and teaches the arts of self-defense.

(4) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a school which holds a regulatory or business license and teaches the arts of self-defense.

(5) Any antique firearm. For purposes of this section, "antique firearm" means any firearm not designed or redesigned for using rimfire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(6) Tracer ammunition manufactured for use in shotguns.

(7) Any firearm or ammunition which is a curio or relic as defined in Section 178.11 of Title 27 of the Code of Federal Regulations and which is in the possession of a person permitted to possess the items pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. Any person prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms or ammunition who obtains title to these items by bequest or intestate succession may retain title for not more than one year, but actual possession of these items at any time is punishable pursuant to Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year the person shall transfer title to the firearms or ammunition by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a).

(8) Any other weapon as defined in subsection (e) of Section 5845 of Title 26 of the United States Code and which is in the possession of a person permitted to possess the weapons pursuant to the federal Gun Control Act of 1968 (Public Law 90-618), as amended, and the regulations issued pursuant thereto. Any person prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing these weapons who obtains title to these weapons by bequest or intestate succession may retain title for not more than one year, but actual possession of these weapons at any time is punishable pursuant to Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year, the person shall transfer title to the weapons by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a). The exemption provided in this subdivision does not apply to pen guns.

(9) Instruments or devices that are possessed by federal, state, and local historical societies, museums, and institutional collections which are open to the public, provided that these instruments or devices are properly housed, secured from unauthorized handling, and, if the instrument or device is a firearm, unloaded.

(10) Instruments or devices, other than short-barreled shotguns or short-barreled rifles, that are possessed or utilized during the course of a motion picture, television, or video production or entertainment event by an authorized participant therein in the course of making that production or event or by an authorized employee or agent of the entity producing that production or event.

(11) Instruments or devices, other than short-barreled shotguns or short-barreled rifles, that are sold by, manufactured by, exposed or kept for sale by, possessed by, imported by, or lent by persons who are in the business of selling instruments or devices listed in subdivision (a) solely to the entities referred in paragraphs (9) and (10) when engaging in transactions with those entities.

(12) The sale to, possession of, or purchase of any weapon, device, or ammunition, other than a short-barreled rifle or short-barreled shotgun, by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law for use in the discharge of their official duties, or the possession of any weapon, device, or ammunition, other than a short-barreled rifle or short-barreled shotgun, by peace officers thereof when on duty and the use is authorized by the agency and is within the course and scope of their duties.

(13) Weapons, devices, and ammunition, other than a short-barreled rifle or short-barreled shotgun, that are sold by, manufactured by, exposed, or kept for sale by, possessed by, imported by, or lent by, persons who are in the business of selling weapons, devices, and ammunition listed in subdivision (a) solely to the entities referred to in paragraph (12) when engaging in transactions with those entities.

(14) The manufacture for, sale to, exposing or keeping for sale to, importation of, or lending of wooden clubs or batons to special police officers or uniformed security guards authorized to carry any wooden club or baton pursuant to Section 12002 by entities that are in the business of selling wooden batons or clubs to special police officers and uniformed security guards when engaging in transactions with those persons.

(15) Prior to January 1, 1992, the possession of a multiburst trigger activator by a person who is not prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms.

(c) (1) As used in this section, a "short-barreled shotgun" means any of the following:

(A) A firearm which is designed or redesigned to fire a fixed shotgun shell and having a barrel or barrels of less than 18 inches in length.

(B) A firearm which has an overall length of less than 26 inches and which is designed or redesigned to fire a fixed shotgun shell.

(C) Any weapon made from a shotgun (whether by alteration, modification, or otherwise) if that weapon, as modified, has an overall length of less than 26 inches or a barrel or barrels of less than

18 inches in length.

(D) Any device which may be readily restored to fire a fixed shotgun shell which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which a device defined in subparagraphs (A) to (C), inclusive, can be readily assembled if those parts are in the possession or under the control of the same person.

(2) As used in this section, a "short-barreled rifle" means any of the following:

(A) A rifle having a barrel or barrels of less than 16 inches in length.

(B) A rifle with an overall length of less than 26 inches.

(C) Any weapon made from a rifle (whether by alteration, modification, or otherwise) if that weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length.

(D) Any device which may be readily restored to fire a fixed cartridge which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which a device defined in subparagraphs (A) to (C), inclusive, may be readily assembled if those parts are in the possession or under the control of the same person.

(3) As used in this section, a "nunchaku" means an instrument consisting of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire, or chain, in the design of a weapon used in connection with the practice of a system of self-defense such as karate.

(4) As used in this section, a "wallet gun" means any firearm mounted or enclosed in a case, resembling a wallet, designed to be or capable of being carried in a pocket or purse, if such firearm may be fired while mounted or enclosed in such case.

(5) As used in this section, a "cane gun" means any firearm mounted or enclosed in a stick, staff, rod, crutch, or similar device, designed to be, or capable of being used as, an aid in walking, if such firearm may be fired while mounted or enclosed therein.

(6) As used in this section, a "fléchette dart" means a dart, capable of being fired from a firearm, which measures approximately one inch in length, with tail fins which take up five-sixteenths of an inch of the body.

(7) As used in this section, "metal knuckles" means any device or instrument made wholly or partially of metal which is worn for purposes of offense or defense in or on the hand and which either protects the wearer's hand while striking a blow or increases the

force of impact from the blow or injury to the individual receiving the blow. The metal contained in the device may help support the hand or fist, provide a shield to protect it, or consist of projections or studs which would contact the individual receiving a blow.

(8) As used in this section, a "ballistic knife" means a device that propels a knifelike blade as a projectile by means of a coil spring, elastic material, or compressed gas. Ballistic knife does not include any device which propels an arrow or a bolt by means of any common bow, compound bow, crossbow, or underwater spear gun.

(9) As used in this section, a "camouflaging firearm container" means a container which meets all of the following criteria:

(A) It is designed and intended to enclose a firearm.

(B) It is designed and intended to allow the firing of the enclosed firearm by external controls while the firearm is in the container.

(C) It is not readily recognizable as containing a firearm.

"Camouflaging firearm container" does not include any camouflaging covering used while engaged in lawful hunting or while going to or returning from a lawful hunting expedition.

(10) As used in this section, a "zip gun" means any weapon or device which meets all of the following criteria:

(A) It was not imported as a firearm by an importer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(B) It was not originally designed to be a firearm by a manufacturer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(C) No tax was paid on the weapon or device nor was an exemption from paying tax on that weapon or device granted under Section 4181 and subchapters F (commencing with Section 4216) and G (commencing with Section 4221) of Chapter 32 of Title 26 of the United States Code, as amended, and the regulations issued pursuant thereto.

(D) It is made or altered to expel a projectile by the force of an explosion or other form of combustion.

(E) It has a barrel or barrels less than 18 inches in length or an overall length of less than 26 inches.

(11) As used in this section, a "shuriken" means any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use as a weapon for throwing.

(12) As used in this section, an "unconventional pistol" means a pistol or revolver that does not have a rifled bore and has a barrel or barrels of less than 18 inches in length or has an overall length of less than 26 inches.

(13) As used in this section, a "belt buckle knife" is a knife which is made an integral part of a belt buckle and consists of a blade with

a length of at least 2½ inches.

(14) As used in this section, a "lipstick case knife" means a knife enclosed within and made an integral part of a lipstick case.

(15) As used in this section, a "cane sword" means a cane, swagger stick, stick, staff, rod, pole, umbrella, or similar device, having concealed within it a blade that may be used as a sword or stiletto.

(16) As used in this section, a "shobi-zue" means a staff, crutch, stick, rod, or pole concealing a knife or blade within it which may be exposed by a flip of the wrist or by a mechanical action.

(17) As used in this section, a "leaded cane" means a staff, crutch, stick, rod, pole, or similar device, unnaturally weighted with lead.

(18) As used in this section, an "air gauge knife" means a device that appears to be an air gauge but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended.

(19) As used in this section, a "writing pen knife" means a device that appears to be a writing pen but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended or the pointed, metallic shaft is exposed by the removal of the cap or cover on the device.

(20) As used in this section, a "rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(21) As used in this section, a "shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger.

(22) As used in this section, a "plastic firearm" means any weapon which meets one of the following requirements:

(A) When, after removal of grips, stocks, and magazines, it is not as detectable as the Security Exemplar, by walk-through metal detectors calibrated and operated to detect the Security Exemplar.

(B) When any major component of which, when subjected to inspection by the types of X-ray machines commonly used at airports, does not generate an image that accurately depicts the shape of the component. Barium sulfate or other compounds may be used in the fabrication of the component.

(C) For purposes of this paragraph, the terms "firearm," "major component," and "Security Exemplar" have the same meanings as those terms are defined in Section 922 of Title 18 of the United States Code.

All firearm detection equipment newly installed in nonfederal public buildings in this state shall be of a type identified by either the

United States Attorney General, the Secretary of Transportation, or the Secretary of the Treasury, as appropriate, as available state-of-the-art equipment capable of detecting a plastic firearm, as defined, while distinguishing innocuous metal objects likely to be carried on one's person sufficient for reasonable passage of the public.

(23) As used in this section, a "multiburst trigger activator" means one of the following devices:

(A) A device designed or redesigned to be attached to a semiautomatic firearm which allows the firearm to discharge two or more shots in a burst by activating the device.

(B) A manual or power-driven trigger activating device constructed and designed so that when attached to a semiautomatic firearm it increases the rate of fire of that firearm.

(d) Knives carried in sheaths which are worn openly suspended from the waist of the wearer are not concealed within the meaning of this section.

SEC. 2. Section 12020 of the Penal Code is amended to read:

12020. (a) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun or wallet gun, any undetectable firearm, any firearm which is not immediately recognizable as a firearm, any camouflaging firearm container, any ammunition which contains or consists of any fléchette dart, any bullet containing or carrying an explosive agent, any ballistic knife, any multiburst trigger activator, any nunchaku, any short-barreled shotgun, any short-barreled rifle, any metal knuckles, any belt buckle knife, any leaded cane, any zip gun, any shuriken, any unconventional pistol, any lipstick case knife, any cane sword, any shobi-zue, any air gauge knife, any writing pen knife, or any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sap, or sandbag, or who carries concealed upon his or her person any explosive substance, other than fixed ammunition or who carries concealed upon his or her person any dirk or dagger shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison. A bullet containing or carrying an explosive agent is not a destructive device as that term is used in Section 12301.

(b) Subdivision (a) does not apply to any of the following:

(1) The sale to, purchase by, or possession of short-barreled shotguns or short-barreled rifles by police departments, sheriffs' offices, marshals' offices, the California Highway Patrol, the Department of Justice, or the military or naval forces of this state or of the United States for use in the discharge of their official duties or the possession of short-barreled shotguns and short-barreled rifles by regular, salaried, full-time members of a police department, sheriff's office, marshal's office, the California Highway Patrol, or the Department of Justice when on duty and the use is authorized by the agency and is within the course and scope of their duties.

(2) The manufacture, possession, transportation or sale of short-barreled shotguns or short-barreled rifles when authorized by the Department of Justice pursuant to Article 6 (commencing with Section 12095) of this chapter and not in violation of federal law.

(3) The possession of a nunchaku on the premises of a school which holds a regulatory or business license and teaches the arts of self-defense.

(4) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a school which holds a regulatory or business license and teaches the arts of self-defense.

(5) Any antique firearm. For purposes of this section, "antique firearm" means any firearm not designed or redesigned for using rimfire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(6) Tracer ammunition manufactured for use in shotguns.

(7) Any firearm or ammunition which is a curio or relic as defined in Section 178.11 of Title 27 of the Code of Federal Regulations and which is in the possession of a person permitted to possess the items pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. Any person prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms or ammunition who obtains title to these items by bequest or intestate succession may retain title for not more than one year, but actual possession of these items at any time is punishable pursuant to Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year the person shall transfer title to the firearms or ammunition by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a).

(8) Any other weapon as defined in subsection (e) of Section 5845 of Title 26 of the United States Code and which is in the possession of a person permitted to possess the weapons pursuant to the federal Gun Control Act of 1968 (Public Law 90-618), as amended, and the regulations issued pursuant thereto. Any person prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing these weapons who obtains title to these weapons by bequest or intestate succession may retain title for not more than one year, but actual possession of these weapons at any time is punishable pursuant to Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year, the person shall transfer title to the weapons by sale, gift, or other disposition. Any person who

violates this paragraph is in violation of subdivision (a). The exemption provided in this subdivision does not apply to pen guns.

(9) Instruments or devices that are possessed by federal, state, and local historical societies, museums, and institutional collections which are open to the public, provided that these instruments or devices are properly housed, secured from unauthorized handling, and, if the instrument or device is a firearm, unloaded.

(10) Instruments or devices, other than short-barreled shotguns or short-barreled rifles, that are possessed or utilized during the course of a motion picture, television, or video production or entertainment event by an authorized participant therein in the course of making that production or event or by an authorized employee or agent of the entity producing that production or event.

(11) Instruments or devices, other than short-barreled shotguns or short-barreled rifles, that are sold by, manufactured by, exposed or kept for sale by, possessed by, imported by, or lent by persons who are in the business of selling instruments or devices listed in subdivision (a) solely to the entities referred in paragraphs (9) and (10) when engaging in transactions with those entities.

(12) The sale to, possession of, or purchase of any weapon, device, or ammunition, other than a short-barreled rifle or short-barreled shotgun, by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law for use in the discharge of their official duties, or the possession of any weapon, device, or ammunition, other than a short-barreled rifle or short-barreled shotgun, by peace officers thereof when on duty and the use is authorized by the agency and is within the course and scope of their duties.

(13) Weapons, devices, and ammunition, other than a short-barreled short-barreled shotgun, that are sold by, manufactured by, exposed, or kept for sale by, possessed by, imported by, or lent by, persons who are in the business of selling weapons, devices, and ammunition listed in subdivision (a) solely to the entities referred to in paragraph (12) when engaging in transactions with those entities.

(14) The manufacture for, sale to, exposing or keeping for sale to, importation of, or lending of wooden clubs or batons to special police officers or uniformed security guards authorized to carry any wooden club or baton pursuant to Section 12002 by entities that are in the business of selling wooden batons or clubs to special police officers and uniformed security guards when engaging in transactions with those persons.

(c) (1) As used in this section, a "short-barreled shotgun" means any of the following:

(A) A firearm which is designed or redesigned to fire a fixed shotgun shell and having a barrel or barrels of less than 18 inches in length.

(B) A firearm which has an overall length of less than 26 inches and which is designed or redesigned to fire a fixed shotgun shell.

(C) Any weapon made from a shotgun (whether by alteration, modification, or otherwise) if that weapon, as modified, has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length.

(D) Any device which may be readily restored to fire a fixed shotgun shell which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which a device defined in subparagraphs (A) to (C), inclusive, can be readily assembled if those parts are in the possession or under the control of the same person.

(2) As used in this section, a "short-barreled rifle" means any of the following:

(A) A rifle having a barrel or barrels of less than 16 inches in length.

(B) A rifle with an overall length of less than 26 inches.

(C) Any weapon made from a rifle (whether by alteration, modification, or otherwise) if that weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length.

(D) Any device which may be readily restored to fire a fixed cartridge which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which a device defined in subparagraphs (A) to (C), inclusive, may be readily assembled if those parts are in the possession or under the control of the same person.

(3) As used in this section, a "nunchaku" means an instrument consisting of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire, or chain, in the design of a weapon used in connection with the practice of a system of self-defense such as karate.

(4) As used in this section, a "wallet gun" means any firearm mounted or enclosed in a case, resembling a wallet, designed to be or capable of being carried in a pocket or purse, if such firearm may be fired while mounted or enclosed in such case.

(5) As used in this section, a "cane gun" means any firearm mounted or enclosed in a stick, staff, rod, crutch, or similar device, designed to be, or capable of being used as, an aid in walking, if such firearm may be fired while mounted or enclosed therein.

(6) As used in this section, a "fléchette dart" means a dart, capable of being fired from a firearm, which measures approximately one inch in length, with tail fins which take up five-sixteenths of an inch of the body.

(7) As used in this section, "metal knuckles" means any device or

instrument made wholly or partially of metal which is worn for purposes of offense or defense in or on the hand and which either protects the wearer's hand while striking a blow or increases the force of impact from the blow or injury to the individual receiving the blow. The metal contained in the device may help support the hand or fist, provide a shield to protect it, or consist of projections or studs which would contact the individual receiving a blow.

(8) As used in this section, a "ballistic knife" means a device that propels a knifelike blade as a projectile by means of a coil spring, elastic material, or compressed gas. Ballistic knife does not include any device which propels an arrow or a bolt by means of any common bow, compound bow, crossbow, or underwater spear gun.

(9) As used in this section, a "camouflaging firearm container" means a container which meets all of the following criteria:

(A) It is designed and intended to enclose a firearm.

(B) It is designed and intended to allow the firing of the enclosed firearm by external controls while the firearm is in the container.

(C) It is not readily recognizable as containing a firearm.

"Camouflaging firearm container" does not include any camouflaging covering used while engaged in lawful hunting or while going to or returning from a lawful hunting expedition.

(10) As used in this section, a "zip gun" means any weapon or device which meets all of the following criteria:

(A) It was not imported as a firearm by an importer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(B) It was not originally designed to be a firearm by a manufacturer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(C) No tax was paid on the weapon or device nor was an exemption from paying tax on that weapon or device granted under Section 4181 and subchapters F (commencing with Section 4216) and G (commencing with Section 4221) of Chapter 32 of Title 26 of the United States Code, as amended, and the regulations issued pursuant thereto.

(D) It is made or altered to expel a projectile by the force of an explosion or other form of combustion.

(11) As used in this section, a "shuriken" means any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use as a weapon for throwing.

(12) As used in this section, an "unconventional pistol" means a firearm that does not have a rifled bore and has a barrel or barrels of less than 18 inches in length or has an overall length of less than 26 inches.

(13) As used in this section, a "belt buckle knife" is a knife which

is made an integral part of a belt buckle and consists of a blade with a length of at least 2½ inches.

(14) As used in this section, a "lipstick case knife" means a knife enclosed within and made an integral part of a lipstick case.

(15) As used in this section, a "cane sword" means a cane, swagger stick, stick, staff, rod, pole, umbrella, or similar device, having concealed within it a blade that may be used as a sword or stiletto.

(16) As used in this section, a "shobi-zue" means a staff, crutch, stick, rod, or pole concealing a knife or blade within it which may be exposed by a flip of the wrist or by a mechanical action.

(17) As used in this section, a "leaded cane" means a staff, crutch, stick, rod, pole, or similar device, unnaturally weighted with lead.

(18) As used in this section, an "air gauge knife" means a device that appears to be an air gauge but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended.

(19) As used in this section, a "writing pen knife" means a device that appears to be a writing pen but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended or the pointed, metallic shaft is exposed by the removal of the cap or cover on the device.

(20) As used in this section, a "rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(21) As used in this section, a "shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger.

(22) As used in this section, an "undetectable firearm" means any weapon which meets one of the following requirements:

(A) When, after removal of grips, stocks, and magazines, it is not as detectable as the Security Exemplar, by walk-through metal detectors calibrated and operated to detect the Security Exemplar.

(B) When any major component of which, when subjected to inspection by the types of X-ray machines commonly used at airports, does not generate an image that accurately depicts the shape of the component. Barium sulfate or other compounds may be used in the fabrication of the component.

(C) For purposes of this paragraph, the terms "firearm," "major component," and "Security Exemplar" have the same meanings as those terms are defined in Section 922 of Title 18 of the United States Code.

All firearm detection equipment newly installed in nonfederal

public buildings in this state shall be of a type identified by either the United States Attorney General, the Secretary of Transportation, or the Secretary of the Treasury, as appropriate, as available state-of-the-art equipment capable of detecting an undetectable firearm, as defined, while distinguishing innocuous metal objects likely to be carried on one's person sufficient for reasonable passage of the public.

(23) As used in this section, a "multiburst trigger activator" means one of the following devices:

(A) A device designed or redesigned to be attached to a semiautomatic firearm which allows the firearm to discharge two or more shots in a burst by activating the device.

(B) A manual or power-driven trigger activating device constructed and designed so that when attached to a semiautomatic firearm it increases the rate of fire of that firearm.

(24) As used in this section, a "dirk" or "dagger" means a knife or other instrument with or without a handguard that is primarily designed, constructed, or altered to be a stabbing instrument designed to inflict great bodily injury or death.

(d) Knives carried in sheaths which are worn openly suspended from the waist of the wearer are not concealed within the meaning of this section.

SEC. 3. Section 12071 of the Penal Code is amended to read:

12071. (a) (1) As used in this chapter, the term "licensee," "person licensed pursuant to Section 12071," 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 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, if 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 sell, lease, or transfer firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, provided the person (i) complies with all other applicable 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 firearms transactions 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 one inch in height:

"IF YOU LEAVE A LOADED FIREARM WHERE A CHILD OBTAINS AND IMPROPERLY USES IT, YOU MAY BE FINED OR SENT TO PRISON."

(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) The licensee shall post conspicuously within the licensed premises a detailed list of each of the following:

(A) All charges required by governmental agencies for processing firearm transfers required by Sections 12076, 12082, and 12806.

(B) All fees that the licensee charges pursuant to Sections 12082 and 12806.

(12) The licensee shall not misstate the amount of fees charged by a governmental agency pursuant to Sections 12076, 12082, and 12806.

(13) The licensee shall report the loss or theft of any firearm that is merchandise of the licensee, any firearm that the licensee takes possession of pursuant to Section 12082, or any firearm kept at the licensee's place of business within 48 hours of discovery to the appropriate law enforcement agency in the city, county, or city and county where the licensee's business premises are located.

(14) In a city and county, or in the unincorporated area of a county with a population of 200,000 persons or more according to the most recent federal decennial census or within a city with a population of 50,000 persons or more according to the most recent federal decennial census, any time the licensee is not open for business, the licensee shall store all firearms kept in his or her licensed place of business using one of the following methods as to each particular firearm:

(A) Store the firearm in a secure facility that is a part of, or that constitutes, the licensee's business premises.

(B) Secure the firearm with a hardened steel rod or cable of at least one-eighth inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a bolt cutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.

(C) Store the firearm in a locked fireproof safe or vault in the licensee's business premises.

(15) The licensing authority in an unincorporated area of a county with a population less than 200,000 persons according to the most recent federal decennial census or within a city with a population of

less than 50,000 persons according to the most recent federal decennial census may impose the requirements specified in paragraph (14).

(16) Paragraph (14) or (15) shall not apply to a licensee organized as a nonprofit public benefit or mutual benefit corporation organized pursuant to Part 2 (commencing with Section 5110) or Part 3 (commencing with Section 7110) of Division 2 of the Corporations Code, if both of the following conditions are satisfied:

(A) The nonprofit public benefit or mutual benefit corporation obtained the dealer's license solely and exclusively to assist that corporation or local chapters of that corporation in conducting auctions or similar events at which firearms are auctioned off to fund the activities of that corporation or the local chapters of the corporation.

(B) The firearms are not pistols, revolvers, or other firearms capable of being concealed upon the person.

(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, "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.

(3) As used in this section, a "secure facility" means a building that meets all of the following specifications:

(A) All perimeter doorways shall meet one of the following:

(i) A windowless steel security door equipped with both a dead bolt and a doorknob lock.

(ii) A windowed metal door that is equipped with both a dead bolt and a doorknob lock. If the window has an opening of five inches or more measured in any direction, the window shall be covered with steel bars of at least one-half inch diameter or metal grating of at least nine gauge affixed to the exterior or interior of the door.

(iii) A metal grate that is padlocked and affixed to the licensee's premises independent of the door and doorframe.

(B) All windows are covered with steel bars.

(C) Heating, ventilating, air-conditioning, and service openings are secured with steel bars, metal grating, or an alarm system.

(D) Any metal grates have spaces no larger than six inches wide measured in any direction.

(E) Any metal screens have spaces no larger than three inches wide measured in any direction.

(F) All steel bars shall be no further than six inches apart.

(4) As used in this section, "licensed premises," "licensed place of business," "licensee's place of business," or "licensee's business

premises" means the building designated in the license.

(d) Upon written request from a licensee, the licensing authority may grant an exemption from compliance with the requirements of paragraph (14) of subdivision (b) if the licensee is unable to comply with those requirements because of local ordinances, covenants, lease conditions, or similar circumstances not under the control of the licensee.

SEC. 4. Section 12071 of the Penal Code is amended to read:

12071. (a) (1) As used in this chapter, the term "licensee," "person licensed pursuant to Section 12071," 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 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) 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, if 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), provided the person complies with (i) all applicable laws, including, but not limited to, the 15-day waiting period specified in subparagraph (A) of paragraph (3), and (ii) 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 firearms transactions 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 one inch in height:

"IF YOU LEAVE A LOADED FIREARM WHERE A CHILD OBTAINS AND IMPROPERLY USES IT, YOU MAY BE FINED OR SENT TO PRISON."

(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) The licensee shall post conspicuously within the licensed premises a detailed list of each of the following:

(A) All charges required by governmental agencies for processing firearm transfers required by Sections 12076, 12082, and 12806.

(B) All fees that the licensee charges pursuant to Sections 12082

and 12806.

(12) The licensee shall not misstate the amount of fees charged by a governmental agency pursuant to Sections 12076, 12082, and 12806.

(13) The licensee shall report the loss or theft of any firearm that is merchandise of the licensee, any firearm that the licensee takes possession of pursuant to Section 12082, or any firearm kept at the licensee's place of business within 48 hours of discovery to the appropriate law enforcement agency in the city, county, or city and county where the licensee's business premises are located.

(14) In a city and county, or in the unincorporated area of a county with a population of 200,000 persons or more according to the most recent federal decennial census or within a city with a population of 50,000 persons or more according to the most recent federal decennial census, any time the licensee is not open for business, the licensee shall store all firearms kept in his or her licensed place of business using one of the following methods as to each particular firearm:

(A) Store the firearm in a secure facility that is a part of, or that constitutes, the licensee's business premises.

(B) Secure the firearm with a hardened steel rod or cable of at least one-eighth inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a bolt cutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.

(C) Store the firearm in a locked fireproof safe or vault in the licensee's business premises.

(15) The licensing authority in an unincorporated area of a county with a population less than 200,000 persons according to the most recent federal decennial census or within a city with a population of less than 50,000 persons according to the most recent federal decennial census may impose the requirements specified in paragraph (14).

(16) Paragraph (14) or (15) shall not apply to a licensee organized as a nonprofit public benefit or mutual benefit corporation organized pursuant to Part 2 (commencing with Section 5110) or Part 3 (commencing with Section 7110) of Division 2 of the Corporations Code, if both of the following conditions are satisfied:

(A) The nonprofit public benefit or mutual benefit corporation obtained the dealer's license solely and exclusively to assist that corporation or local chapters of that corporation in conducting auctions or similar events at which firearms are auctioned off to fund the activities of that corporation or the local chapters of the corporation.

(B) The firearms are not pistols, revolvers, or other firearms capable of being concealed upon the person.

(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, "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.

(3) As used in this section, a "secure facility" means a building that meets all of the following specifications:

(A) All perimeter doorways shall meet one of the following:

(i) A windowless steel security door equipped with both a dead bolt and a doorknob lock.

(ii) A windowed metal door that is equipped with both a dead bolt and a doorknob lock. If the window has an opening of five inches or more measured in any direction, the window shall be covered with steel bars of at least one-half inch diameter or metal grating of at least nine gauge affixed to the exterior or interior of the door.

(iii) A metal grate that is padlocked and affixed to the licensee's premises independent of the door and doorframe.

(B) All windows are covered with steel bars.

(C) Heating, ventilating, air-conditioning, and service openings are secured with steel bars, metal grating, or an alarm system.

(D) Any metal grates have spaces no larger than six inches wide measured in any direction.

(E) Any metal screens have spaces no larger than three inches wide measured in any direction.

(F) All steel bars shall be no further than six inches apart.

(4) As used in this section, "licensed premises," "licensed place of business," "licensee's place of business," or "licensee's business premises" means the building designated in the license.

(d) Upon written request from a licensee, the licensing authority may grant an exemption from compliance with the requirements of paragraph (14) of subdivision (b) if the licensee is unable to comply with those requirements because of local ordinances, covenants, lease conditions, or similar circumstances not under the control of the licensee.

SEC. 5. Section 12071 of the Penal Code is amended to read:

12071. (a) (1) As used in this chapter, the term "licensee," "person licensed pursuant to Section 12071," 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 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) 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, if 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), provided the person complies with (i) all applicable laws, including, but not limited to, the 15-day waiting period specified in subparagraph (A) of

paragraph (3), and (ii) 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 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 firearms transactions 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 one inch in height:

"IF YOU LEAVE A LOADED FIREARM WHERE A CHILD OBTAINS AND IMPROPERLY USES IT, YOU MAY BE FINED OR SENT TO PRISON."

(8) Commencing April 1, 1994, 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) The licensee shall post conspicuously within the licensed premises a detailed list of each of the following:

(A) All charges required by governmental agencies for processing firearm transfers required by Sections 12076, 12082, and 12806.

(B) All fees that the licensee charges pursuant to Sections 12082 and 12806.

(12) The licensee shall not misstate the amount of fees charged by a governmental agency pursuant to Sections 12076, 12082, and 12806.

(13) The licensee shall report the loss or theft of any firearm that is merchandise of the licensee, any firearm that the licensee takes possession of pursuant to Section 12082, or any firearm kept at the licensee's place of business within 48 hours of discovery to the appropriate law enforcement agency in the city, county, or city and county where the licensee's business premises are located.

(14) In a city and county, or in the unincorporated area of a county with a population of 200,000 persons or more according to the most recent federal decennial census or within a city with a population of 50,000 persons or more according to the most recent federal decennial census, any time the licensee is not open for business, the licensee shall store all firearms kept in his or her licensed place of business using one of the following methods as to each particular firearm:

(A) Store the firearm in a secure facility that is a part of, or that constitutes, the licensee's business premises.

(B) Secure the firearm with a hardened steel rod or cable of at least one-eighth inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a bolt cutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.

(C) Store the firearm in a locked fireproof safe or vault in the licensee's business premises.

(15) The licensing authority in an unincorporated area of a county with a population less than 200,000 persons according to the most recent federal decennial census or within a city with a population of less than 50,000 persons according to the most recent federal decennial census may impose the requirements specified in paragraph (14).

(16) Paragraph (14) or (15) shall not apply to a licensee organized as a nonprofit public benefit or mutual benefit corporation organized pursuant to Part 2 (commencing with Section 5110) or Part 3 (commencing with Section 7110) of Division 2 of the Corporations Code, if both of the following conditions are satisfied:

(A) The nonprofit public benefit or mutual benefit corporation obtained the dealer's license solely and exclusively to assist that corporation or local chapters of that corporation in conducting auctions or similar events at which firearms are auctioned off to fund the activities of that corporation or the local chapters of the corporation.

(B) The firearms are not pistols, revolvers, or other firearms capable of being concealed upon the person.

(17) Commencing January 1, 1994, the licensee shall, upon the issuance or renewal of a license, submit a copy of the same to the Department of Justice.

(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, "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.

(3) As used in this section, a "secure facility" means a building that meets all of the following specifications:

(A) All perimeter doorways shall meet one of the following:

(i) A windowless steel security door equipped with both a dead bolt and a doorknob lock.

(ii) A windowed metal door that is equipped with both a dead bolt and a doorknob lock. If the window has an opening of five inches or

more measured in any direction, the window shall be covered with steel bars of at least one-half inch diameter or metal grating of at least nine gauge affixed to the exterior or interior of the door.

(iii) A metal grate that is padlocked and affixed to the licensee's premises independent of the door and doorframe.

(B) All windows are covered with steel bars.

(C) Heating, ventilating, air-conditioning, and service openings are secured with steel bars, metal grating, or an alarm system.

(D) Any metal grates have spaces no larger than six inches wide measured in any direction.

(E) Any metal screens have spaces no larger than three inches wide measured in any direction.

(F) All steel bars shall be no further than six inches apart.

(4) As used in this section, "licensed premises," "licensed place of business," "licensee's place of business," or "licensee's business premises" means the building designated in the license.

(d) Upon written request from a licensee, the licensing authority may grant an exemption from compliance with the requirements of paragraph (14) of subdivision (b) if the licensee is unable to comply with those requirements because of local ordinances, covenants, lease conditions, or similar circumstances not under the control of the licensee.

(e) Commencing March 1, 1994, the Department of Justice shall keep a centralized list of all persons licensed pursuant to this section and shall make information about an individual dealer available, upon request, for one of the following purposes:

(1) For law enforcement purposes.

(2) When the information is requested by a manufacturer, an importer, a wholesaler, or a dealer for determining the validity of the license for firearm shipments.

SEC. 6. 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 that 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) (1) Except as provided in paragraph (2), 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 (A) obtains title to an assault weapon registered under this section by bequest or intestate succession, or (B) lawfully possessed a firearm subsequently declared to be an assault weapon pursuant to Section 12276.5, shall, within 90 days, 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 that 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.

(2) A person moving into this state, otherwise in lawful possession of an assault weapon, shall do one of the following:

(A) Prior to bringing the assault weapon into this state, that person shall first obtain a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2.

(B) The person shall cause the assault weapon to be delivered to a licensed dealer in this state in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. If the person obtains a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2, the dealer shall redeliver that assault weapon to the person. If the licensed dealer is prohibited from delivering the assault weapon to a person pursuant to this paragraph, the dealer shall possess or dispose of the assault weapon as allowed by this chapter.

(c) A person who has registered an assault weapon under this section may possess it only under any of 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 that 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 January 1, 1992, a forgiveness period shall exist to allow persons specified in subdivision (b) of Section 12280 to register with the Department of Justice assault weapons that 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 January 1, 1992, provided that law enforcement was aware of the violation before the weapon was registered.

SEC. 7. 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 that 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 that 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) (1) Except as provided in paragraph (2), 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 (A) obtains title to an assault weapon registered under this section by bequest or intestate succession, or (B) lawfully possessed a firearm subsequently declared to be an assault weapon pursuant to Section 12276.5, shall, within 90 days, 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 that 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.

(2) A person moving into this state, otherwise in lawful possession of an assault weapon, shall do one of the following:

(A) Prior to bringing the assault weapon into this state, that person shall first obtain a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2.

(B) The person shall cause the assault weapon to be delivered to a licensed dealer in this state in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. If the person obtains a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2, the dealer shall redeliver that assault weapon to the person. If the licensed dealer is prohibited from delivering the assault weapon to a person pursuant to this paragraph, the dealer shall possess or dispose of the assault weapon as allowed by this chapter.

(c) A person who has registered an assault weapon under this section may possess it only under any of 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 that 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 on publicly owned land if the possession and use of a firearm described in Section 12276 is specifically permitted by the managing agency of the land.

(7) 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 January 1, 1992, a forgiveness period shall exist to allow persons specified in subdivision (b) of Section 12280 to register with the Department of Justice assault weapons that 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 January 1, 1992, provided that law enforcement was aware of the violation before the weapon was registered.

SEC. 8. Section 2 of this bill incorporates amendments to Section 12020 of the Penal Code proposed by both this bill and AB 1266. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1994, (2) each bill amends Section 12020 of the Penal Code, and (3) this bill is enacted after AB 1266, in which case Section 1 of this bill shall not become operative.

SEC. 9. (a) Section 4 of this bill incorporates amendments to Section 12071 of the Penal Code proposed by both this bill and AB 1648. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1994, (2) each bill amends Section 12071 of the Penal Code, (3) AB 166 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1648, in which case Sections 3 and 5 of this bill shall not become operative.

(b) Section 5 of this bill incorporates amendments to Section

12071 of the Penal Code proposed by this bill, AB 166, and AB 1648. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1994, (2) each bill amends Section 12071 of the Penal Code, and (3) this bill is enacted after AB 166 and AB 1648, in which case Section 12071 of the Penal Code, as amended by AB 166, shall remain operative only until the operative date of this bill, at which time Section 5 of this bill shall become operative and Sections 3 and 4 of this bill shall not become operative.

SEC. 10. Section 7 of this bill incorporates amendments to Section 12285 of the Penal Code proposed by both this bill and AB 2352. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1994, (2) each bill amends Section 12285 of the Penal Code, and (3) this bill is enacted after AB 2352, in which case Section 6 of this bill shall not become operative.

SEC. 11. The amendments to Section 12020 of the Penal Code proposed by this act shall not become operative if Senate Bill 1128 of the 1993–94 Regular Session is enacted, takes effect on January 1, 1994, and effects Section 12020 of the Penal Code.

SEC. 12. The amendments to Section 12285 of the Penal Code proposed by this act shall not become operative if Senate Bill 1128 of the 1993–94 Regular Session is enacted, takes effect on January 1, 1994, and effects Section 12285 of the Penal Code.

SEC. 13. 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 1140

An act to amend Sections 84211, 87500, and 91013 of, and to add Section 86112.3 to, the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor October 10, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 84211 of the Government Code is amended to read:

84211. Each campaign statement required by this article shall contain all of the following information:

(a) The total amount of contributions received during the period covered by the campaign statement and the total cumulative amount of contributions received.

(b) The total amount of expenditures made during the period covered by the campaign statement and the total cumulative amount of expenditures made.

(c) The total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of one hundred dollars ($100) or more.

(d) The total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of less than one hundred dollars ($100).

(e) The balance of cash and cash equivalents on hand at the beginning and the end of the period covered by the campaign statement.

(f) If the cumulative amount of contributions (including loans) received from a person is one hundred dollars ($100) or more and a contribution or loan has been received from that person during the period covered by the campaign statement, all of the following:

(1) His or her full name.

(2) His or her street address.

(3) His or her occupation.

(4) The name of his or her employer, or if self-employed, the name of the business.

(5) The date and amount received for each contribution received during the period covered by the campaign statement and if the contribution is a loan, the interest rate for the loan.

(6) The cumulative amount of contributions.

(g) For each person, other than the filer, who is directly, indirectly, or contingently liable for repayment of a loan received during the period covered by the campaign statement, all of the following:

(1) His or her full name.

(2) His or her street address.

(3) His or her occupation.

(4) The name of his or her employer, or if self-employed, the name of the business.

(5) The amount of his or her maximum liability.

(h) The total amount of expenditures made during the period covered by the campaign statement to persons who have received one hundred dollars ($100) or more.

(i) The total amount of expenditures made during the period covered by the campaign statement to persons who have received less than one hundred dollars ($100).

(j) For each person to whom an expenditure of one hundred dollars ($100) or more has been made during the period covered by the campaign statement, all of the following:

(1) His or her full name.
(2) His or her street address.
(3) The amount of each expenditure.
(4) A brief description of the consideration for which each expenditure was made.
(5) In the case of an expenditure which is a contribution, the date of the contribution; the cumulative amount of contributions made to a candidate, elected officer, or committee; the full name of the candidate; and the office and district for which he or she seeks nomination or election. In the case of a contribution in support of or opposition to a measure, the number or letter of the measure and the jurisdiction in which the measure or candidate is voted upon.
(6) The information required in paragraphs (1) to (4), inclusive, for each person, if different from the payee, who has provided consideration for an expenditure of one hundred dollars ($100) or more during the period covered by the campaign statement.
(7) In the case of an expenditure made to pay or reimburse the travel expenses or necessary accommodations of a candidate, his or her representative, or a member of the candidate's immediate family, the date, destination, and total expenditure for each trip.
For purposes of subdivisions (h), (i), and (j) only, the terms "expenditure" or "expenditures" mean any individual payment or accrued expense, unless it is clear from surrounding circumstances that a series of payments or accrued expenses are for a single service or product.
(k) In the case of a controlled committee, an official committee of a political party, or an organization formed or existing primarily for political purposes, the amount and source of any miscellaneous receipt.
(*l*) If a committee is listed pursuant to subdivision (f), (g), (j), (k), or (p), the number assigned to the committee by the Secretary of State shall be listed, or if no number has been assigned, the full name and street address of the treasurer of the committee.
(m) In a campaign statement filed by a committee supporting or opposing more than one candidate or measure, the amount of expenditures of one hundred dollars ($100) or more for or against each candidate or measure during the period covered by the campaign statement and the cumulative amount of expenditures of one hundred dollars ($100) or more for or against each candidate or measure.
(n) In a campaign statement filed by a candidate who is a candidate in both an election held on the first Tuesday after the first Monday in June and an election held on the first Tuesday after the first Monday in November, his or her controlled committee, or a committee primarily formed to support or oppose such a candidate, the total amount of contributions received and the total amount of expenditures made for the period January 1 through June 30 and the total amount of contributions received and expenditures made for the period July 1 through December 31.

(o) The full name, residential or business address, and telephone number of the filer, or in the case of a campaign statement filed by a committee defined by subdivision (a) of Section 82013, the name, street address, and telephone number of the committee and of the committee treasurer. In the case of a committee defined by subdivision (b) or (c) of Section 82013, the name that the filer uses on campaign statements shall be the name by which the filer is identified for other legal purposes or any name by which the filer is commonly known to the public.

(p) If the campaign statement is filed by a candidate, the name, street address, and treasurer of any committee of which he or she has knowledge which has received contributions or made expenditures on behalf of his or her candidacy and whether the committee is controlled by the candidate.

(q) A contribution need not be reported nor shall it be deemed accepted if it is not cashed, negotiated, or deposited and is returned to the contributor before the closing date of the campaign statement on which the contribution would otherwise be reported.

(r) If the campaign statement is filed in connection with the qualification of a measure, it shall contain the information required by paragraphs (1) to (4), inclusive, of subdivision (j) for each person who has directly, indirectly, or through an intermediary received payments cumulatively totaling one hundred dollars ($100) or more for circulation of petitions to qualify a measure for the ballot.

(s) If a committee primarily formed for the qualification or support of, or opposition to, an initiative or ballot measure is required to report an expenditure to a business entity pursuant to subdivision (j) and 50 percent or more of the business entity is owned by a candidate or person controlling the committee, by an officer or employee of the committee, or by a spouse of any of these individuals, the committee's campaign statement shall also contain, in addition to the information required by subdivision (j), that person's name, the relationship of that person to the committee, and a description of that person's ownership interest or position with the business entity.

(t) If a committee primarily formed for the qualification or support of, or opposition to, an initiative or ballot measure is required to report an expenditure to a business entity pursuant to subdivision (j), and a candidate or person controlling the committee, an officer or employee of the committee, or a spouse of any of these individuals is an officer, partner, consultant, or employee of the business entity, the committee's campaign statement shall also contain, in addition to the information required by subdivision (j), that person's name, the relationship of that person to the committee, and a description of that person's ownership interest or position with the business entity.

(u) The information required by Sections 84216 and 84216.5.

(v) If the campaign statement is filed by a committee, as defined in subdivision (b) or (c) of Section 82013, information sufficient to

identify the nature and interests of the filer, including:

(1) If the filer is an individual, the name and address of the filer's employer, if any, or his or her principal place of business if the filer is self-employed, and a description of the business activity in which the filer or his or her employer is engaged.

(2) If the filer is a business entity, a description of the business activity in which it is engaged.

(3) If the filer is an industry, trade, or professional association, a description of the industry, trade, or profession which it represents, including a specific description of any portion or faction of the industry, trade, or profession which the association exclusively or primarily represents.

(4) If the filer is not an individual, business entity, or industry, trade, or professional association, a statement of the person's nature and purposes, including a description of any industry, trade, profession, or other group with a common economic interest which the person principally represents or from which its membership or financial support is principally derived.

SEC. 2. Section 86112.3 is added to the Government Code, to read:

86112.3. (a) Each person filing a report pursuant to this article who sends any written or printed invitation to an elected state officer, candidate for elective state office, legislative official or agency official, shall include on the invitation or on a letter attached to the invitation the following typed, printed, or handwritten statement that is at least as large and readable as 8-point Roman boldface type, in a color or print that contrasts with the background so as to be easily legible:

Attendance at this event by a public official will constitute acceptance of a reportable gift.

(b) The notice specified in subdivision (a) shall not be required to appear on any invitation wherein attendance at the event described in the invitation will not constitute acceptance of a reportable gift by an elected state officer, candidate for elective state office, legislative official or agency official, pursuant to paragraph (1) of subdivision (a) of Section 87207.

(c) The remedies provided in Chapter 3 (commencing with Section 83100) constitute the exclusive penalty for a violation of this section. The remedies provided in Chapter 11 (commencing with Section 91000) do not apply to this section.

SEC. 3. Section 87500 of the Government Code is amended to read:

87500. Statements of economic interests required by this chapter shall be filed as follows:

(a) Statewide elected officer—one original with the agency which shall make and retain a copy and forward the original to the commission, which shall retain the original and send one copy to the Registrar-Recorder of Los Angeles County and one copy with the Clerk of the City and County of San Francisco. The commission shall

be the filing officer.

(b) Candidates for statewide elective office—one original with the person with whom the candidate's declaration of candidacy is filed, who shall forward the original to the commission which shall retain the original and send one copy to the Registrar-Recorder of Los Angeles County and one copy with the Clerk of the City and County of San Francisco. The commission shall be the filing officer.

(c) Members of the Legislature and Board of Equalization—one original with the agency which shall make and retain a copy and forward the original to the commission, which shall retain the original and send one copy to the clerk of the county which contains the largest percentage of registered voters in the election district which the officeholder represents, and one copy to the clerk of the county in which the officeholder resides. No more than one copy of each statement need be filed with the clerk of any one county. The commission shall be the filing officer.

(d) Candidates for the Legislature or the Board of Equalization—one original with the person with whom the candidate's declaration of candidacy is filed, who shall forward the original to the commission which shall retain the original and send one copy to the clerk of the county which contains the largest percentage of registered voters in the election district in which the candidate seeks nomination or election, and one copy to the clerk of the county in which the candidate resides. No more than one copy of each statement need be filed with the clerk of any one county. The commission shall be the filing officer.

(e) Persons holding the office of chief administrative officer and candidates for and persons holding the office of district attorney, county counsel, county treasurer, and member of the board of supervisors—one original with the county clerk who shall make and retain a copy and forward the original to the commission which shall be the filing officer.

(f) Persons holding the office of city manager or, if there is no city manager, the chief administrative officer, the city treasurer, and candidates for and persons holding the office of city council member, city attorney, and mayor—one original with the city clerk who shall make and retain a copy and forward the original to the commission which shall be the filing officer.

(g) Members of the Public Utilities Commission, members of the State Energy Resources Conservation and Development Commission, planning commissioners, and members of the California Coastal Commission—one original with the agency which shall make and retain a copy and forward the original to the commission which shall be the filing officer.

(h) Members of the Fair Political Practices Commission—one original with the commission which shall make and retain a copy and forward the original to the office of the Attorney General which shall be the filing officer.

(i) Judges, court commissioners, and candidates for the office of

judge—one original with the clerk of the court who shall make and retain a copy and forward the original to the commission which shall be the filing officer.

(j) Except as provided for in subdivision (k), heads of agencies, members of boards or commissions not under a department of state government or members of boards or commissions not under the jurisdiction of a local legislative body—one original with the agency, which shall make and retain a copy and forward the original to the code reviewing body which shall be the filing officer. In its discretion, the code reviewing body may provide that the original be filed directly with the code reviewing body and that no copy be retained by the agency.

(k) Heads of local government agencies and members of local government boards or commissions, for which the Fair Political Practices Commission is the code reviewing body, one original to the agency or board or commission which shall be the filing officer, unless at its discretion the Fair Political Practices Commission elects to act as the filing officer. In this instance, the original shall be filed with the agency, board, or commission, which shall make and retain a copy and forward the original to the Fair Political Practices Commission.

(*l*) Designated employees of the Legislature—one original with the house of the Legislature by which the designated employee is employed. In its discretion, each house of the Legislature may provide that the originals of statements filed by its designated employees be filed directly with the commission, and that no copies be retained by that house.

(m) Designated employees under contract to more than one joint powers insurance agency and who elect to file a multiagency statement pursuant to Section 87350, the original of the statement with the commission which shall be the filing officer, and a statement with each agency with which they are under contract, declaring that their statement of economic interests is on file with the commission and available upon request.

(n) Members of a state licensing or regulatory board, bureau, or commission—one original with the agency, which shall make and retain a copy and forward the original to the commission, which shall be the filing officer.

(o) Persons not mentioned above—one original with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code.

SEC. 4. Section 91013 of the Government Code is amended to read:

91013. (a) If any person files an original statement or report after any deadline imposed by this act, he or she shall, in addition to any other penalties or remedies established by this act, be liable in the amount of ten dollars ($10) per day after the deadline until the statement or report is filed, to the officer with whom the statement or report is required to be filed. Liability need not be enforced by

the filing officer if on an impartial basis he or she determines that the late filing was not willful and that enforcement of the liability will not further the purposes of the act, except that no liability shall be waived if a statement or report is not filed within 30 days for a statement of economic interest, other than a candidate's statement filed pursuant to Section 87201, five days for a campaign statement required to be filed 12 days before an election, and 10 days for all other statements or reports, after the filing officer has sent specific written notice of the filing requirement.

(b) If any person files a copy of a statement or report after any deadline imposed by this act, he or she shall, in addition to any other penalties or remedies established by this chapter, be liable in the amount of ten dollars ($10) per day, starting 10 days, or five days in the case of a campaign statement required to be filed 12 days before an election, after the officer has sent specific written notice of the filing requirement and until the statement is filed.

(c) The officer shall deposit any funds received under this section into the general fund of the jurisdiction of which he or she is an officer. No liability under this section shall exceed the cumulative amount stated in the late statement or report, or one hundred dollars ($100), whichever is greater.

SEC. 5. 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. 6. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 1141

An act to amend Sections 1026.2 and 1603 of the Penal Code, relating to criminal procedure.

[Approved by Governor October 10, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 1026.2 of the Penal Code, as amended by Section 2 of Chapter 1343 of the Statutes of 1987, is amended to read:

1026.2. (a) An application for the release of a person who has been committed to a state hospital or other treatment facility, as provided in Section 1026, upon the ground that sanity has been restored, may be made to the superior court of the county from which the commitment was made, either by the person, or by the medical director of the state hospital or other treatment facility to which the person is committed or by the community program director where the person is on outpatient status under Title 15 (commencing with Section 1600) of Part 2. The court shall give notice of the hearing date to the prosecuting attorney, the community program director or a designee, and the medical director or person in charge of the facility providing treatment to the committed person at least 15 judicial days in advance of the hearing date.

(b) Pending the hearing, the medical director or person in charge of the facility in which the person is confined shall prepare a summary of the person's programs of treatment and shall forward the summary to the community program director or a designee and to the court. The community program director or a designee shall review the summary and shall designate a facility within a reasonable distance from the court in which the person may be detained pending the hearing on the application for release. The facility so designated shall continue the program of treatment, shall provide adequate security, and shall, to the greatest extent possible, minimize interference with the person's program of treatment.

(c) A designated facility need not be approved for 72-hour treatment and evaluation pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code); however, a county jail may not be designated unless the services specified above are provided, and accommodations are provided which ensure both the safety of the person and the safety of the general population of the jail. If there is evidence that the treatment program is not being complied with, or accommodations have not been provided which ensure both the safety of the committed person and the safety of the general population of the jail, the court shall order the person transferred to an appropriate facility or make any other appropriate

order, including continuance of the proceedings.

(d) No hearing upon the application for release shall be allowed until the person committed shall have been confined or placed on outpatient status or on parole under Section 1611 for a period of not less than 90 days from the date of the order of commitment. If the finding of the court is adverse to releasing the person on the ground that sanity has not been restored, no application shall be filed by the person until one year has elapsed from the date of hearing upon the last preceding application. In any hearing authorized by this section, the burden of proving that sanity has been restored shall be upon the applicant. The court shall notify the community program director or a designee and the medical director or person in charge of the facility providing treatment to the committed person whether or not the defendant was found by the court to have recovered sanity.

(e) If the application for the release is not made by the medical director of the state hospital or other treatment facility to which the person is committed or by the community program director where the person is on outpatient status under Title 15 (commencing with Section 1600), no action on the application shall be taken by the court without first obtaining the written recommendation of the medical director of the state hospital or other treatment facility or by the community program director where the person is on outpatient status under Title 15 (commencing with Section 1600).

(f) This section shall become operative on January 1, 1995.

SEC. 2. Section 1026.2 of the Penal Code, as amended by Section 1 of Chapter 183 of the Statutes of 1991, is amended to read:

1026.2. (a) An application for the release of a person who has been committed to a state hospital or other treatment facility, as provided in Section 1026, upon the ground that sanity has been restored, may be made to the superior court of the county from which the commitment was made, either by the person, or by the medical director of the state hospital or other treatment facility to which the person is committed or by the community program director where the person is on outpatient status under Title 15 (commencing with Section 1600). The court shall give notice of the hearing date to the prosecuting attorney, the community program director or a designee, and the medical director or person in charge of the facility providing treatment to the committed person at least 15 judicial days in advance of the hearing date.

(b) Pending the hearing, the medical director or person in charge of the facility in which the person is confined shall prepare a summary of the person's programs of treatment and shall forward the summary to the community program director or a designee and to the court. The community program director or a designee shall review the summary and shall designate a facility within a reasonable distance from the court in which the person may be detained pending the hearing on the application for release. The facility so designated shall continue the program of treatment, shall provide adequate security, and shall, to the greatest extent possible,

minimize interference with the person's program of treatment.

(c) A designated facility need not be approved for 72-hour treatment and evaluation pursuant to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code). However, a county jail may not be designated unless the services specified in subdivision (b) are provided and accommodations are provided which ensure both the safety of the person and the safety of the general population of the jail. If there is evidence that the treatment program is not being complied with or accommodations have not been provided which ensure both the safety of the committed person and the safety of the general population of the jail, the court shall order the person transferred to an appropriate facility or make any other appropriate order, including continuance of the proceedings.

(d) No hearing upon the application shall be allowed until the person committed has been confined or placed on outpatient status for a period of not less than 180 days from the date of the order of commitment.

(e) The court shall hold a hearing to determine whether the person applying for restoration of sanity would be a danger to the health and safety of others, due to mental defect, disease, or disorder, if under supervision and treatment in the community. If the court at the hearing determines the applicant will not be a danger to the health and safety of others, due to mental defect, disease, or disorder, while under supervision and treatment in the community, the court shall order the applicant placed with an appropriate forensic conditional release program for one year. All or a substantial portion of the program shall include outpatient supervision and treatment. The court shall retain jurisdiction. The court at the end of the one year, shall have a trial to determine if sanity has been restored, which means the applicant is no longer a danger to the health and safety of others, due to mental defect, disease, or disorder. The court shall not determine whether the applicant has been restored to sanity until the applicant has completed the one year in the appropriate forensic conditional release program. The court shall notify the persons required to be notified in subdivision (a) of the hearing date.

(f) If the applicant is on parole or outpatient status and has been on it for one year or longer, then it is deemed that the applicant has completed the required one year in an appropriate forensic conditional release program and the court shall, if all other applicable provisions of law have been met, hold the trial on restoration of sanity as provided for in this section.

(g) Before placing an applicant in an appropriate forensic conditional release program, the community program director shall submit to the court a written recommendation as to what forensic conditional release program is the most appropriate for supervising and treating the applicant. If the court does not accept the community program director's recommendation, the court shall specify the reason or reasons for its order on the court record.

Sections 1605 to 1610, inclusive, shall be applicable to the person placed in the forensic conditional release program unless otherwise ordered by the court.

(h) If the court determines that the person should be transferred to an appropriate forensic conditional release program, the community program director or a designee shall make the necessary placement arrangements, and, within 21 days after receiving notice of the court finding, the person shall be placed in the community in accordance with the treatment and supervision plan, unless good cause for not doing so is made known to the court.

(i) If at the trial for restoration of sanity the court rules adversely to the applicant, the court may place the applicant on outpatient status, pursuant to Title 15 (commencing with Section 1600) of Part 2, unless the applicant does not meet all of the requirements of Section 1603.

(j) If the court denies the application to place the person in an appropriate forensic conditional release program or if restoration of sanity is denied, no new application may be filed by the person until one year has elapsed from the date of the denial.

(k) In any hearing authorized by this section, the applicant shall have the burden of proof by a preponderance of the evidence.

(*l*) If the application for the release is not made by the medical director of the state hospital or other treatment facility to which the person is committed or by the community program director where the person is on outpatient status under Title 15 (commencing with Section 1600), no action on the application shall be taken by the court without first obtaining the written recommendation of the medical director of the state hospital or other treatment facility or of the community program director where the person is on outpatient status under Title 15 (commencing with Section 1600).

(m) This section shall remain in effect only until January 1, 1995, and as of that date is repealed.

SEC. 3. Section 1603 of the Penal Code, as amended by Section 5 of Chapter 1343 of the Statutes of 1987, is amended to read:

1603. (a) Any person subject to subdivision (a) of Section 1601 may be placed on outpatient status if all of the following conditions are satisfied:

(1) The director of the state hospital or other treatment facility to which the person has been committed advises the committing court that the defendant is no longer likely to be a danger to the health and safety of others while on outpatient status, and will benefit from that status.

(2) The community program director advises the court that the defendant will benefit from that status, and identifies an appropriate program of supervision and treatment.

(3) After actual notice to the prosecutor and defense counsel, and after a hearing in court, the court specifically approves the recommendation and plan for outpatient status pursuant to Section 1604.

(b) The community program director shall prepare and submit the evaluation and the treatment plan specified in paragraph (2) of subdivision (a) to the court within 30 calendar days after notification by the court to do so.

(c) Any evaluations and recommendations pursuant to paragraphs (1) and (2) of subdivision (a) shall include review and consideration of complete, available information regarding the circumstances of the criminal offense and the person's prior criminal history.

(d) This section shall become operative January 1, 1995.

SEC. 4. Section 1603 of the Penal Code, as amended by Section 3 of Chapter 1343 of the Statutes of 1987, is amended to read:

1603. (a) Any person subject to subdivision (a) of Section 1601 may be placed on outpatient status if all of the following conditions are satisfied:

(1) The director of the state hospital or other treatment facility to which the person has been committed advises the committing court that the defendant would no longer be a danger to the health and safety of others, including himself or herself, while under supervision and treatment in the community, and will benefit from such status.

(2) The community program director advises the court that the defendant will benefit from that status, and identifies an appropriate program of supervision and treatment.

(3) After actual notice to the prosecutor and defense counsel, and to the victim or next of kin of the victim of the offense for which the person was committed where a request for the notice has been filed with the court, and after a hearing in court, the court specifically approves the recommendation and plan for outpatient status pursuant to Section 1604. The burden shall be on the victim or next of kin to the victim to keep the court apprised of the party's current mailing address.

In any case in which the victim or next of kin to the victim has filed a request for notice with the director of the state hospital or other treatment facility, he or she shall be notified by the director at the inception of any program in which the committed person would be allowed any type of day release unattended by the staff of the facility.

(b) The community program director shall prepare and submit the evaluation and the treatment plan specified in paragraph (2) of subdivision (a) to the court within 30 calendar days after notification by the court to do so.

(c) Any evaluations and recommendations pursuant to paragraphs (1) and (2) of subdivision (a) shall include review and consideration of complete, available information regarding the circumstances of the criminal offense and the person's prior criminal history.

(d) This section shall remain in effect only until January 1, 1995, and as of that date is repealed.

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.

CHAPTER 1142

An act to amend Sections 1760 and 1775.4 of the Insurance Code, and to add Part 7.5 (commencing with Section 13201) to Division 2 of the Revenue and Taxation Code, relating to taxation, and making an appropriation therefore, to take effect immediately, tax levy.

[Approved by Governor October 10, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 1760 of the Insurance Code is amended to read:

1760. (a) Any person may negotiate and effect insurance on his, her, or its own property with any nonadmitted insurer to indemnify against loss, damage, or liability.

(b) Every person that effects insurance governed by this chapter shall pay the tax imposed by Part 7.5 (commencing with Section 13201) of Division 2 of the Revenue and Taxation Code.

SEC. 2. Section 1775.4 of the Insurance Code is amended to read:

1775.4. (a) The amount of the payment shall be 3 percent of the gross premiums upon business done by the surplus line broker under the authority of his or her license during the calendar quarter ending two calendar months immediately preceding the due date of the payment, as specified in Section 1775.3, less return premiums paid by him or her in that calendar quarter, excluding gross premiums and return premiums paid by him or her upon business governed by the provisions of Section 1760.5. If during any calendar quarter those return premiums paid by a surplus line broker exceed the gross premiums upon the business done by him or her in that calendar quarter, then no payment shall be payable by him or her in respect to that calendar quarter, and he or she may carry forward that excess to the next succeeding calendar quarter or quarters and apply it in reduction of the taxable premiums on business done by him or her in that succeeding calendar quarter or quarters. Even though no payment shall be payable by the broker, he or she shall file a return

showing that his or her return premiums exceeded his or her gross premiums.

(b) In determining the applicability of subdivision (a) of Section 1775.1 to a surplus line broker who has acquired the business of another surplus line broker, the amount of tax liability of the acquired broker for the immediately preceding calendar year shall be added to the amount of the tax liability of the acquiring broker for the immediately preceding calendar year.

(c) All amounts paid, other than penalties and interest, shall be allowed as a credit on the annual tax imposed by Section 1775.5.

(d) If the total amount of quarterly installment payments for any calendar year exceeds the amount of annual tax for that year, the excess shall be treated as an overpayment of annual tax and be allowed as a credit or refund.

(e) A penalty of 10 percent of the amount of the quarterly payment due shall be levied upon and paid by any surplus line broker who fails to make the necessary payment within the time required, plus interest at the rate of 1 percent per calendar month or fraction thereof from the due date of the payment until the date payment is received by the commissioner, but not for any period after the due date of the annual tax. The commissioner may remit the penalty in a case where he or she finds, as a result of examination or otherwise, that the failure of, or delay in, payment arose out of excusable mistake or excusable inadvertence.

(f) For any part of a payment required that was not made within the time required by law, when the nonpayment or late payment was due to fraud on the part of the taxpayer, a penalty of 25 percent of the amount unpaid shall be added thereto, in addition to all other penalties otherwise imposed.

(g) The commissioner, upon a showing of good cause, may extend for not to exceed 10 days the time for making a quarterly payment. The extension may be granted at any time, provided that a request therefor is filed with the commissioner within or prior to the period for which the extension may be granted. No interest shall be paid for the period of time for which the extension is granted.

SEC. 3. Part 7.5 (commencing with Section 13201) is added to Division 2 of the Revenue and Taxation Code, to read:

PART 7.5. NONADMITTED INSURANCE TAX

13201. This part shall be known and may be cited as the Nonadmitted Insurance Tax Law.

13203. For purposes of this part:

(a) "Person" means an individual, bank, corporation, partnership, society, association, organization, joint stock company, estate, or trust, or a receiver, trustee, assignee, referee or any other person acting in a fiduciary capacity, whether appointed by a court or otherwise, or any combination thereof.

(b) "Taxpayer" means any person subject to the tax imposed by

this part.

13210. (a) For gross premiums paid or to be paid on insurance contracts that take effect or are renewed on or after January 1, 1994, every person who effects insurance governed by Chapter 6 (commencing with Section 1760) of Part 2 of Division 1 of the Insurance Code shall pay a gross premium tax of 3 percent for the use of the state, less 3 percent of returned premiums that were subject to the tax received by reason of cancellation or reduction of premium.

(1) This section shall not apply to either of the following:

(A) Insurance coverage for which a tax on the gross premium is due or has been paid pursuant to Section 1775.5 of the Insurance Code.

(B) Gross premiums paid and returned premiums received by that person upon business governed by the provisions of Section 1760.5 of the Insurance Code.

(2) If during any calendar quarter 3 percent of the returned premiums received that were subject to the tax imposed by this part exceed 3 percent of the gross premiums paid or to be paid by that person on contracts that took effect or were renewed in that calendar quarter, then that person may either carry forward the excess to a succeeding calendar quarter and apply it as a credit against the 3 percent of gross premiums paid or to be paid by that person in the succeeding calendar quarter, or the person may elect to receive, and be paid a refund equal to the amount of taxes paid by the person on the excess of returned premiums received over gross premiums paid or to be paid.

(b) For purposes of determining the tax, the total premium paid or to be paid for all nonadmitted insurance placed in a single transaction with one underwriter or group of underwriters, whether in one or more policies, in that calendar quarter during which the taxable insurance contract or contracts took effect or were renewed, shall be allocated to this state in the proportion that the total premium on the insured properties or operations in this state, as computed on the exposure in this state on the basis of any single standard rating method in use in all states or countries where the insurance applies, bears to the total premium so computed in all states or countries in which that nonadmitted insurance may apply.

(c) Subdivision (b) shall not apply to interstate motor transit operations conducted between this and other states. With respect to those operations, the tax shall be payable on the entire premium charged on all nonadmitted insurance, less both of the following:

(1) The portion of the premium that is determined to have been paid for operations in other states taxing the premium on operations in states of an insured maintaining its headquarters office in this state.

(2) The premium for any operations outside of this state of an insured who maintains a headquarters operating office outside of this state and a branch office in this state.

13220. (a) Every person subject to this part shall file with the Franchise Tax Board a return prescribed by the board on or before the first day of the third month following the close of the calendar quarter during which a taxable insurance contract took effect or was renewed.

(b) In accordance with forms and instructions, the tax, penalties, and interest imposed by this part shall be administered and enforced by the Franchise Tax Board as though they are taxes imposed under Part 10 (commencing with Section 17001). Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), or any other applicable law shall apply for this purpose in the same manner and with the same force and effect as if the language of Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), or the other applicable law is incorporated in full into this part, except to the extent that the provision is either inconsistent with a provision of this part, is not relevant to this part, or is otherwise provided for under this part.

(c) The following penalties shall apply, in lieu of those penalties provided under Part 10.2 (commencing with Section 18401):

(1) A penalty of 10 percent of the amount of the payment due is imposed upon any person who fails to make the necessary payment within the time required.

(2) For any part of a payment required that was not made within the time required by law, when the nonpayment or late payment was due to fraud on the part of the taxpayer, a penalty of 25 percent of the amount unpaid shall be added thereto, in addition to all other penalties otherwise imposed.

(d) (1) Except as provided in paragraph (2), interest shall be allowed and paid on any refund provided under paragraph (2) of subdivision (a) of Section 13210 from the date the claim for refund is filed. No interest shall be allowed or paid on amounts credited to succeeding calendar quarters as provided under paragraph (2) of subdivision (a) of Section 13210.

(2) If an amount refunded as provided under paragraph (2) of subdivision (a) of Section 13210 within 120 days after a claim or return is filed, or within 120 days after the last date for filing the tax return, whichever is later, no interest shall be allowed on the amount of the refund.

(e) The period of limitation for allowing or making refunds or credits as provided under paragraph (2) of subdivision (a) of Section 13210 shall be the period of limitations for allowing or making refunds or credits of overpayments under Part 10.2 (commencing with Section 18401), except that the "date of cancellation or reduction of premium" shall be substituted for "date of overpayment."

13221. In the event a person subject to tax imposed under this part is delinquent in the payment of the assessment, and that person also has an amount imposed and due and payable under Part 10 (commencing with Section 17001), Part 10.2 (commencing with

Section 18401), or Part 11 (commencing with Section 23001), any amounts collected by the Franchise Tax Board shall be applied first to the payment of those taxes, additions to tax, penalties, interest, fees, or other amounts imposed and due and payable under Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), or Part 11 (commencing with Section 23001).

13222. (a) All amounts collected shall be transmitted to the Treasurer and deposited in the State Treasury to the credit of the Insurance Tax Fund that is created by Section 13151.

(b) Moneys in the Insurance Tax Fund shall be drawn therefrom for the purpose of paying refunds under this part.

SEC. 4. For purposes of implementing and administering this act in the 1993–94 fiscal year, the sum of three hundred ninety-one thousand dollars ($391,000) is hereby appropriated from the General Fund to the Franchise Tax Board, in augmentation of Item 1730-001-001 of the Budget Act of 1993. It is the intent of the Legislature that the funds to administer this act for the 1994–95 fiscal year, and each fiscal year thereafter, shall be provided for in the annual Budget Act.

SEC. 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1143

An act to amend Section 12400 of the Elections Code, to amend Section 89519 of, and to add Section 89517.5 to, the Government Code, relating to campaign funds.

[Approved by Governor October 10, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 12400 of the Elections Code is amended to read:

12400. Upon leaving any elective office, or at the end of the postelection reporting period following the defeat of a candidate for elective office, whichever occurs last, surplus campaign funds raised prior to January 1, 1989, under the control of the former candidate or officeholder or his or her controlled committee shall be used or held only for the following purposes:

(a) (1) The repayment of personal or committee loans or other obligations if there is a reasonable relationship to a political, legislative, or governmental activity.

(2) For purposes of this subdivision, the payment for, or the reimbursement to the state of, the costs of installing and monitoring an electronic security system in the home or office, or both, of a candidate or elected officer who has received threats to his or her

physical safety shall be deemed to have a reasonable relationship to a political, legislative, or governmental activity, provided that the threats arise from his or her activities, duties, or status as a candidate or elected officer and that the threats have been reported to and verified by an appropriate law enforcement agency. Verification shall be determined solely by the law enforcement agency to which the threat was reported. The candidate or elected officer shall report any expenditure of campaign funds made pursuant to this section to the commission. The report to the commission shall include the date that the candidate or elected officer informed the law enforcement agency of the threat, the name and phone number of the law enforcement agency, and a brief description of the threat. No more than five thousand dollars ($5,000) in surplus campaign funds may be used, cumulatively, by a candidate or elected officer pursuant to this subdivision. Payments made pursuant to this subdivision shall be made during the two years immediately following the date upon which the campaign funds became surplus campaign funds. The candidate or elected officer shall reimburse the surplus campaign fund account for the fair market value of the security system no later than two years immediately following the date upon which the campaign funds become surplus campaign funds, upon sale of the property on which the system is installed, or prior to the closing of the surplus campaign fund account, whichever comes first. The electronic security system shall be the property of the campaign committee of the candidate or elected officer.

(b) The payment of the outstanding campaign expenses.

(c) Contributions to any candidate, committee, or political party, except where otherwise prohibited by law.

(d) The pro rata repayment of contributors.

(e) Donations to any religious, scientific, educational, social welfare, civic, or fraternal organization no part of the net earnings of which inures to the benefit of any private shareholder or individual or to any charitable or nonprofit organization which is exempt from taxation under subsection (c) of Section 501 of the Internal Revenue Code or Section 17214 or Sections 23701a to 23701j, inclusive, or Section 23701*l*, 23701n, 23701p, or 23701s of the Revenue and Taxation Code.

(f) Except where otherwise prohibited by law, held in a segregated fund for future political campaigns, not to be expended except for political activity reasonably related to preparing for future candidacy for elective office.

SEC. 2. Section 89517.5 is added to the Government Code, to read:

89517.5. Notwithstanding Section 89517, campaign funds may be used to pay, or reimburse the state, for the costs of installing and monitoring an electronic security system in the home or office, or both, of a candidate or elected officer who has received threats to his or her physical safety, provided that the threats arise from his or her activities, duties, or status as a candidate or elected officer and that

the threats have been reported to and verified by an appropriate law enforcement agency. Verification shall be determined solely by the law enforcement agency to which the threat was reported. The candidate or elected officer shall report any expenditure of campaign funds made pursuant to this section to the commission. The report to the commission shall include the date that the candidate or elected officer informed the law enforcement agency of the threat, the name and phone number of the law enforcement agency, and a brief description of the threat. No more than five thousand dollars ($5,000) in campaign funds may be used, cumulatively, by a candidate or elected officer pursuant to this subdivision. The candidate or elected officer shall reimburse the campaign fund account for the costs of the security system upon sale of the property where the security equipment is installed, based on the fair market value of the security equipment at the time the property is sold.

SEC. 3. Section 89519 of the Government Code is amended to read:

89519. Upon leaving any elected office, or at the end of the postelection reporting period following the defeat of a candidate for elective office, whichever occurs last, campaign funds raised after January 1, 1989, under the control of the former candidate or elected officer shall be considered surplus campaign funds and shall be disclosed pursuant to Chapter 4 (commencing with Section 84100) and shall be used only for the following purposes:

(a) (1) The payment of outstanding campaign debts or elected officer's expenses.

(2) For purposes of this subdivision, the payment for, or the reimbursement to the state of, the costs of installing and monitoring an electronic security system in the home or office, or both, of a candidate or elected officer who has received threats to his or her physical safety shall be deemed an outstanding campaign debt or elected officer's expense, provided that the threats arise from his or her activities, duties, or status as a candidate or elected officer and that the threats have been reported to and verified by an appropriate law enforcement agency. Verification shall be determined solely by the law enforcement agency to which the threat was reported. The candidate or elected officer shall report any expenditure of campaign funds made pursuant to this section to the commission. The report to the commission shall include the date that the candidate or elected officer informed the law enforcement agency of the threat, the name and phone number of the law enforcement agency, and a brief description of the threat. No more than five thousand dollars ($5,000) in surplus campaign funds may be used, cumulatively, by a candidate or elected officer pursuant to this subdivision. Payments made pursuant to this subdivision shall be made during the two years immediately following the date upon which the campaign funds became surplus campaign funds. The candidate or elected officer shall reimburse the surplus campaign

fund account for the fair market value of the security system no later than two years immediately following the date upon which the campaign funds become surplus campaign funds, upon sale of the property on which the system is installed, or prior to the closing of the surplus campaign fund account, whichever comes first. The electronic security system shall be the property of the campaign committee of the candidate or elected officer.

(b) The pro rata repayment of contributions.

(c) Donations to any bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, where no substantial part of the proceeds will have a material financial effect on the former candidate or elected officer, any member of his or her immediate family, or his or her campaign treasurer.

(d) Contributions to a political party or committee so long as the funds are not used to make contributions in support of or opposition to a candidate for elective office.

(e) Contributions to support or oppose any candidate for federal office, any candidate for elective office in a state other than California, or any ballot measure.

(f) The payment for professional services reasonably required by the committee to assist in the performance of its administrative functions, including payment for attorney's fees for litigation which arises directly out of a candidate's or elected officer's activities, duties, or status as a candidate or elected officer, including, but not limited to, an action to enjoin defamation, defense of an action brought of a violation of state or local campaign, disclosure, or election laws, and an action arising from an election contest or recount.

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.

SEC. 5. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 1144

An act to amend Sections 22252, 22513, 23800, 23801, 23804.3, 23851, 23854, 23880, 23900, 23903.5, 23911.2, 24152.5, 24155, 24156, 24201, 24203, 24204, 44986 and 44986.1 of the Education Code, to amend Section 21411 of the Government Code, and to amend Section 1095 of the Unemployment Insurance Code, relating to certificated school employees' benefits, and making an appropriation therefor.

[Approved by Governor October 10, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 22252 of the Education Code is amended to read:

22252. All members of the State Teachers' Retirement System on October 15, 1992, who are not receiving a disability allowance or a retirement allowance with an effective date prior to October 16, 1992, shall be eligible to make an irrevocable election, pursuant to this chapter, to retain coverage under either the disability allowance and family allowance programs or to have coverage under the disability retirement and survivor benefits programs.

The member's eligibility to participate in the election shall be based on the member's status with the system on October 15, 1992, only, and not on prior or subsequent events.

SEC. 2. Section 22513 of the Education Code is amended to read:

22513. Persons who have not achieved plan vesting shall qualify for eligibility for benefits under this system when total service under both systems equals the minimum required under Sections 23801 and 23804. These persons shall retain vested rights to survivor and disability benefits until they qualify for the similar benefits in the Public Employees' Retirement System.

SEC. 3. Section 23800 of the Education Code is amended to read:

23800. This chapter governs the eligibility, benefit provisions, allowance computations, and related provisions for the death benefits payable upon the death of eligible members. "Members," as used in this chapter, means all members who were disabilitants on October 15, 1992, and all persons who were members of the system on October 15, 1992, who did not elect, pursuant to Chapter 3.5 (commencing with Section 22250), to be covered under Chapter 19.5 (commencing with Section 23850).

This chapter also contains three sections related to survivor benefits payable on account of deaths that occurred prior to July 1, 1972.

SEC. 3.5. Section 23801 of the Education Code is amended to read:

23801. (a) A death payment of five thousand dollars ($5,000) shall be paid to the beneficiary upon receipt of proof of death of a

member who had one or more years of credited service, at least one of which had been performed subsequent to the most recent refund of accumulated retirement contributions, if the member died during any one of the following periods:

(1) While in active employment.

(2) While disabled, if the disability had been continuous from the last day for which compensation had been paid.

(3) Within four months after terminating employment.

(4) Within four months after termination of a disability allowance if no service was performed after the termination.

(5) Within 12 months of the last day for which compensation was paid, if the member was on an approved leave of absence without compensation for reasons other than disability or military service.

(b) A death payment pursuant to this section shall not be payable for the death of a member that occurs within one year commencing with the effective date of reinstatement from service retirement pursuant to Section 23913.

(c) The board may adjust the death payment amount following each actuarial valuation based on changes in the All Urban California Consumer Price Index.

(d) A designated beneficiary may waive his or her right to the death payment in accordance with the requirements established by the system.

SEC. 4. Section 23804.3 of the Education Code is amended to read:

23804.3. A family allowance is payable in the amount and to the specified persons in the following order of priority:

(a) To the member's or disabilitant's surviving spouse who has financial responsibility for at least one child, an amount equal to 40 percent of the deceased member's final compensation or the disabilitant's projected final compensation plus 10 percent of the deceased member's final compensation or the disabilitant's projected final compensation for each child, up to a maximum allowance of 90 percent.

(b) If there is no surviving spouse or upon the death of the surviving spouse, to each child, an amount equal to 10 percent of the deceased member's final compensation or the disabilitant's projected final compensation, up to a maximum allowance of 50 percent. If there are more than five children, they shall share equally in the maximum allowance of 50 percent.

(c) To the surviving spouse at age 60 or over without children, an amount equal to option three as provided under this part computed on the member's or disabilitant's projected final compensation and projected service to normal retirement age. The allowance payable under this subdivision shall be increased by application of the benefit improvement factor for time that elapses between the date the member or disabilitant would have attained normal retirement age and the date the family allowance under this subdivision begins to accrue. The benefit calculation shall include credit for the unused

sick leave that had accrued to the member as of the date of the member's death. Eligibility for the use of sick leave and the calculation of service credit shall be determined pursuant to Section 22719.

(d) If there is no surviving spouse or children upon the member's or disabilitant's death, to the dependent parent age 60 or over, an amount equal to option three as provided under this part computed on the member's or disabilitant's projected final compensation and projected service to normal retirement age. The benefit calculation shall include credit for the unused sick leave that had accrued to the member as of the date of the member's death. Eligibility for the use of sick leave and the calculation of service credit shall be determined pursuant to Section 22719. If there are two dependent parents, a single-family allowance shall be computed on the assumption that the younger parent is the beneficiary and the allowance shall be divided equally for as long as there are two dependent parents. Thereafter, the allowance shall be payable to the surviving dependent parent.

(e) If there are no children who qualify under Section 22112, a spouse or the dependent parent or parents may elect, prior to the receipt of the first payment under subdivision (c) or (d), to receive the accumulated contributions in a lump sum subject to a reduction for any payments made from the account for any prior qualified persons.

SEC. 4.5. Section 23851 of the Education Code is amended to read:

23851. (a) A death payment of twenty thousand dollars ($20,000) shall be paid to the beneficiary, as designated pursuant to Section 23702, upon receipt of proof of death of a member who had one or more years of credited service, at least one of which had been performed subsequent to the most recent refund of accumulated retirement contributions, if the member died during any one of the following periods:

(1) While in active employment.

(2) Within four months after terminating employment.

(3) Within 12 months of the last day for which compensation was paid, if the member was on an approved leave of absence without compensation for reasons other than disability or military service.

(b) A death payment pursuant to this section shall not be payable for the death of a member that occurs within one year commencing with the effective date of reinstatement from service retirement pursuant to Section 23913 or during the calendar six months commencing with the effective date of reinstatement from disability retirement pursuant to Section 24166.

(c) The board may adjust the death payment amount following each actuarial valuation based on changes in the All Urban California Consumer Price Index.

(d) A designated beneficiary may waive his or her right to the death payment in accordance with the requirements established by

the system.

SEC. 5. Section 23854 of the Education Code is amended to read:

23854. (a) A survivor benefit allowance is payable upon receipt of proof of death of a member, as defined in Section 23850, who had one or more years of credited service, at least one of which had been performed subsequent to the most recent refund of accumulated retirement contributions.

(b) For the survivor benefit allowance to be payable upon the death of a member, all of the following conditions shall be met at the time of death:

(1) Death occurred after October 15, 1992.

(2) A preretirement election of an option is not in effect.

(3) Death occurs during any one of the following periods: (A) while in active employment; (B) within four months after termination of employment; (C) within four months after termination of disability allowance; (D) within four months after reinstatement from disability retirement; or (E) within 12 months following the last day for which compensation was paid if the member was on an approved leave of absence without compensation for reasons other than disability or military service.

(4) At least one-half year of credited service had been performed subsequent to the end of the last break, if a break in service of more than one year had occurred.

(5) At least one year of credited service had been performed subsequent to the last reinstatement date, if reinstated from service retirement.

(c) The survivor benefit allowance is in lieu of the return of the member's accumulated retirement contributions.

(d) The survivor benefit allowance may be terminated, if all eligible beneficiaries formally waive their rights in accordance with the requirements established by the system.

SEC. 6. Section 23880 of the Education Code is amended to read:

23880. (a) A death payment of five thousand dollars ($5,000) shall be paid to the designated beneficiary upon receipt of proof of death of: (1) a retirant; or (2) a member, if the death payment pursuant to Section 23801 would have otherwise been payable or if the conditions specified pursuant to paragraph (3) of subdivision (b) of Section 23854 are met, and if the member's death occurs during one of the following periods: (A) within one year commencing with the effective date of reinstatement from service retirement pursuant to Section 23913, or (B) within six months commencing with the effective date of reinstatement from disability retirement pursuant to Section 24166.

(b) The board may adjust the death payment amount following each actuarial valuation based on changes in the All Urban California Consumer Price Index.

SEC. 7. Section 23900 of the Education Code is amended to read:

23900. A retirement allowance shall become effective upon any date designated by the member, provided all of the following

conditions are met:

(a) An application for retirement allowance is filed on a form provided by the system, which is executed no earlier than six months before the effective date of retirement allowance.

(b) The effective date is later than the last day of credited service for which salary is payable to the member.

(c) The effective date is no earlier than the first day of the month in which the application is received by the system in Sacramento.

(d) Either of the following:

(1) The effective date is no earlier than one year following the date on which the member was reinstated under Section 23913, or subdivision (a) of Section 24166, or

(2) The effective date is no earlier than the date upon and continuously after which the member is determined to the satisfaction of the board to have been mentally incompetent.

SEC. 8. Section 23903.5 of the Education Code is amended to read:

23903.5. (a) The member shall provide medical documentation related to the impairment qualifying him or her for the disability allowance.

(b) On receipt of an application for disability allowance, the system may order a medical examination of a member to determine whether the member is incapacitated for further service. The medical examination shall be conducted by a practicing physician, selected by the board, with expertise in the member's disability and the board shall pay all costs associated with the examination. The board shall pay all other reasonable costs related to travel and meals in accordance with the rates set for state employees by the Department of Personnel Administration. If the member refuses to submit to the required medical examination, the application for disability allowance shall be rejected. The member shall either remain in the state, or return to this state at the member's own expense, to undergo the initial evaluations or examinations or the application shall be disallowed, unless this requirement is waived by the board. If the member is too ill to be examined, the system shall postpone the examination until the member can be examined. The member or the member's treating physician shall inform the system, in writing, when the medical examination can be rescheduled.

(c) The system may reject the disability allowance application if the member fails to provide requested medical documentation to substantiate a disability, as defined in Section 22122, within 45 days from the date of the request or within 30 days from the time that a legally designated representative is empowered to act on behalf of a member who is too incapacitated mentally or physically to comply.

(d) If the board determines that a member who has applied for a disability allowance may perform his or her usual duties or those of a comparable level position with the assistance of reasonable accommodation, the board may require the member to request reasonable accommodation from the employer. Failure of the

member to request reasonable accommodation, as directed by the board, may be grounds for cancellation of the disability allowance application.

(e) In the event that the employer fails or refuses to provide reasonable accommodation, the board may require the member to pursue an administrative appeal of the employer's denial as a condition for receiving a disability allowance.

(f) The system shall inform the member of any rejection of a disability allowance application within 30 days after that determination is made by the system.

SEC. 9. Section 23911.2 of the Education Code is amended to read:

23911.2. If a disability allowance granted after June 30, 1972, is terminated for reasons other than those specified in Section 23911 and the member does not return to employment in a position requiring membership in the system, the service retirement allowance, when payable, shall be based on projected service, projected final compensation, and the age of the member on the last day of the month in which the retirement allowance begins to accrue. The allowance payable under this section, excluding annuities payable from accumulated annuity deposit contributions, shall not be greater than the terminated disability allowance exclusive of increments added for children.

SEC. 10. Section 24152.5 of the Education Code is amended to read:

24152.5. (a) The member shall provide medical documentation related to the impairment qualifying him or her for the disability retirement.

(b) On receipt of an application for disability retirement, the system may order a medical examination of a member to determine whether the member is incapacitated for further service. The medical examination shall be conducted by a practicing physician, selected by the board, with expertise in the member's disability and the board shall pay all costs associated with the examination. The board shall pay all other reasonable costs related to travel and meals in accordance with the rates set for state employees by the Department of Personnel Administration. If the member refuses to submit to the required medical examination, the application for disability retirement shall be rejected. The member shall either remain in this state, or return to this state at the member's own expense, to undergo the initial evaluations or examinations or the application shall be disallowed, unless this requirement is waived by the board. If the member is too ill to comply with this examination, the system shall postpone the examination until a time that the member can be examined. The member or the member's treating physician shall inform the system, in writing, when the medical examination can be rescheduled.

(c) The system may reject the disability retirement application if the member fails to provide requested medical documentation to

substantiate a disability, as defined in Section 22122, within 45 days from the date of the request or within 30 days from the time that a legally designated representative is empowered to act on behalf of a member who is too incapacitated mentally or physically to comply.

(d) If the board determines that a member who has applied for disability retirement may perform his or her usual duties or those of a comparable level position with the assistance of reasonable accommodation, the board may require the member to request reasonable accommodation from the employer. Failure of the member to request reasonable accommodation, as directed by the board, may be grounds for cancellation of the disability retirement application.

(e) If the employer fails or refuses to provide reasonable accommodation, the board may require the member to pursue an administrative appeal of the employer's denial as a condition for receiving a disability retirement allowance.

(f) The system shall inform the member of any rejection of a disability retirement application within 30 days after that determination is made by the system.

SEC. 10.5. Section 24155 of the Education Code is amended to read:

24155. Upon retirement for disability pursuant to this chapter, a member shall receive a retirement allowance which shall consist of all of the following:

(a) An annual allowance equal to 50 percent of final compensation payable in monthly installments.

(b) An additional 10 percent of final compensation for each eligible dependent child, up to a maximum of 40 percent of final compensation. If there are more than four children, they shall share equally in the maximum allowance of 40 percent. An eligible child may waive his or her right to his or her portion in accordance with the requirements established by the system.

(c) An annuity which shall be the actuarial equivalent of the accumulated annuity deposit contributions standing to the credit of the member's account on the effective date of the disability retirement.

SEC. 11. Section 24156 of the Education Code is amended to read:

24156. A disability retirant may elect an option pursuant to Section 24201 to modify the disability retirement allowance payable pursuant to subdivision (a) of Section 24155.

SEC. 12. Section 24201 of the Education Code is amended to read:

24201. Any member who has filed an application for a disability retirement pursuant to Chapter 22.5 (commencing with Section 24150) may elect, as provided in Section 24200, to receive an actuarially modified disability retirement allowance. After receipt of a disability retirement application from a member, the board shall mail an acknowledgment notice to the member. A 30-day period shall commence with the mailing of the notice, during which the member may change the option election made on the disability

retirement application.

The option shall be effective on the effective date of the disability retirement allowance. The modification of the disability retirement allowance under the option elected shall be based on the ages of the disability retirant and the named option beneficiary as of the effective date of the disability retirement. The modification shall be applicable only to the disability retirement allowance payable pursuant to subdivision (a) of Section 24155.

The elected option may not be revoked or changed after the later of the effective date of the disability retirement allowance or 30 days after the mailing of the acknowledgment notice pursuant to this section.

If a member dies prior to electing an unmodified allowance or an option, the member will be considered to have died while in active status, regardless of whether the disability retirement application is or would have been approved.

SEC. 13. Section 24203 of the Education Code is amended to read:

24203. Any member who has qualified to make application for retirement allowance under Section 23901 may elect, as provided in Section 24200, and except as provided in Section 24200.1, without right of revocation or change after the effective date of his or her retirement, to receive an actuarially modified service retirement allowance as of the date of retirement, of the retirement allowance payable to the member when and if the member retires for service. If the death of the member occurs after the date upon which the election has been signed, then the election shall be in full force and effect. The election shall be void if not received in the system's office in Sacramento within 30 days after the date of signature.

Upon the member's death, prior to the effective date of retirement, the beneficiary who was designated under the option elected and who survives shall receive an allowance calculated under the option, upon the assumption that the member retired for service on the date of death. The payment of the allowance to the option beneficiary shall be in lieu of the family allowance provided in Section 23804, the payment provided in subdivision (a) of Section 23802, the survivor benefit allowance provided in Section 23854, and the payment provided in subdivisions (a) and (b) of Section 23852, except that if the beneficiary dies before all accumulated contributions are paid the balance, if any, shall be paid to the estate of the person last receiving or entitled to receive the allowance. The accumulated annuity deposit contributions and the death payment provided in Sections 23801 and 23851, shall be paid to the designated beneficiary in a lump sum.

If the member subsequently retires for service, and the elected option has not been canceled pursuant to Section 24205, a modified service retirement allowance computed under Section 24200 and the option elected shall be paid.

The amount of the service retirement allowance prior to applying the option factor shall be calculated as of the earlier of the member's

age at death before retirement, or age on the last day of the month in which the member requested service retirement be effective. The modification of the service retirement allowance under the option elected shall be based on the ages of the member and the beneficiary designated under the option, at the date the election was signed.

Any member reinstated to membership pursuant to Section 23913 is not eligible to file a preretirement election of an option until one year after the date of reinstatement.

The system shall inform members who are qualified to make application for a preretirement election of an option, through the annual statements of account, that the option is available.

SEC. 14. Section 24204 of the Education Code is amended to read:

24204. (a) The election of an option as provided in Section 24203 shall preclude the payment of a family allowance to any beneficiary.

(b) The preretirement election of an option made by the member pursuant to Section 24203 shall be voided by the board as of the effective date of an approved disability retirement. Members receiving a disability retirement allowance pursuant to Chapter 22.5 (commencing with Section 24150) may not file an election of option as provided in Section 24203.

(c) The election of an option as provided in Section 24203 shall preclude the payment of a survivor benefit allowance pursuant to Chapter 19.5 (commencing with Section 23850) and shall preclude the payment of the remaining balance of the member's accumulated retirement contributions prior to the death of the option beneficiary.

SEC. 15. Section 44986 of the Education Code is amended to read:

44986. (a) The governing board of a school district may grant a leave of absence to any certificated employee who has applied for disability benefits, not to exceed 30 days beyond final determination of the employee's eligibility for disability benefits by the State Teachers' Retirement System. If the employee is determined to be eligible for the disability benefits by the system, that leave shall be extended for the term of disability, but not more than 39 months.

(b) (1) Governing boards of school districts shall classify as temporary employees those persons employed to fill vacancies caused by the absence of certificated employees who are classified as permanent and are receiving a disability or insurance allowance or benefit from the system or from a group insurance plan for which the employer is paying the cost or deducting the cost from the employees' salaries.

(2) For purposes of this section, the term of employment of the temporary employee shall be equal to the number of days of absence of the employee receiving the disability benefit.

(3) If the term of employment extends beyond this period, the employee shall be credited for all days served as a probationary employee.

SEC. 16. Section 44986.1 of the Education Code is amended to read:

44986.1. Any member for whom the employer makes application

for a disability benefit and whom the State Teachers' Retirement System finds not to be disabled under this chapter, shall be reinstated to the former position upon receipt by the employer of notification from the system of the denial of the disability benefit.

SEC. 17. Section 21411 of the Government Code is amended to read:

21411. (a) The board shall contract with carriers offering long-term care insurance plans and enter into health care service plan contracts covering long-term care.

The long-term care insurance plans and health care service plan contracts covering long-term care shall be made available on or before January 1, 1992, and periodically thereafter during open enrollment periods determined by the board.

(b) The board shall award contracts to carriers who are qualified to provide long-term care benefits, and may develop and administer self-funded long-term care insurance plans. The board may offer one or more long-term care insurance plans or health care service plan contracts covering long-term care and may offer service or indemnity-type plans.

(c) The long-term care insurance plans and health care service plan contracts covering long-term care shall include home, community, and institutional care and shall, to the extent determined by the board, provide substantially equivalent coverage to that required under Chapter 2.6 (commencing with Section 10230) of Part 2 of Division 2 of the Insurance Code, if the carrier has been approved by the Department of Corporations pursuant to the Knox-Keene Health Care Service Plan Act (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

(d) Active and retired members and annuitants of the Public Employees' Retirement System, their spouses and parents, and active and retired members and annuitants of any county or district subject to the County Employees Retirement Law of 1937, their spouses, and their parents, and members and retirants of the State Teachers' Retirement System, their spouses, and their parents, shall be eligible to enroll provided they meet the eligibility and underwriting criteria established by the board, except that enrollment of state employees shall be subject to Section 19867.

(e) The board shall establish eligibility criteria for enrollment, establish appropriate underwriting criteria for potential enrollees, define the scope of covered benefits, define the criteria to receive benefits, and set any other standards as needed.

(f) The full cost of enrollment in a long-term care insurance plan or in health care service plan contracts covering long-term care shall be paid by the enrollees.

(g) The long-term care insurance plans and health care service plan contracts covering long-term care shall not become part of, or subject to, the retirement or health benefits programs administered by the system.

(h) For any self-funded long-term care plan developed by the board, the premiums shall be deposited in the Public Employees' Long-term Care Fund.

SEC. 18. Section 1095 of the Unemployment Insurance Code is amended to read:

1095. The director shall permit the use of any information in his or her possession to the extent necessary for any of the following purposes:

(a) To properly present a claim for benefits.

(b) To acquaint a worker or his or her authorized agent with his or her existing or prospective right to benefits.

(c) To furnish an employer or his or her authorized agent with information to enable him or her to fully discharge his or her obligations or safeguard his or her rights under this division or Division 3 (commencing with Section 9000). This subdivision, as it relates to Division 3 (commencing with Section 9000), applies only to subdivision (j) of this section.

(d) To enable an employer to receive a reduction in contribution rate.

(e) To enable the Director of Social Services or his or her representatives or the Director of Health Services or his or her representatives, subject to federal law, to verify or determine the eligibility or entitlement of an applicant for, or a recipient of, public social services provided pursuant to the Welfare and Institutions Code, and directly connected with, and limited to, the administration of public social services.

(f) To enable county administrators of general relief or assistance, or their representatives, to determine entitlement to locally provided general relief or assistance, where the determination is directly connected with, and limited to, the administration of general relief or assistance.

(g) To enable county district attorneys, or their representatives, to seek criminal, civil, or administrative remedies in connection with the unlawful application for, or receipt of, relief provided under Division 9 (commencing with Section 10000) of the Welfare and Institutions Code.

(h) To enable the director or his or her representative to carry out his or her responsibilities under this code.

(i) To enable county departments of collection or their representatives to determine entitlement to medical assistance services rendered pursuant to Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code, and, when appropriate, to enable collection for the county's expenditures for these medical assistance services.

(j) To furnish an employer, or his or her authorized agent, with information including, but not limited to, the applicant's or recipient's name, social security number, address, employable skills, and job placement in order to enable him or her to fully discharge his or her obligations or safeguard his or her rights under the

elements of a joint union, management, and Employment Development Department agreement as are deemed necessary to assist displaced workers to obtain new employment under the provisions of Chapter 2.9 (commencing with Section 9970) of Part 1 of Division 3 and related provisions of Division 3 (commencing with Section 9000). The information shall be limited to any information gathered under these divisions by the department and authorized for release by the labor organization which shall act as an agent for the affected workers under terms of the agreement and shall participate in defining the information release provisions.

(k) To provide any law enforcement agency with the name, address, telephone number, birth date, social security number, physical description, and names and addresses of present and past employers, of any victim, suspect, missing person, potential witness, or person for whom a felony arrest warrant has been issued, when a request for this information is made by any investigator or peace officer as defined by Sections 830.1 and 830.2 of the Penal Code and designated by the head of the law enforcement agency and who requests this information in the course of and as a part of an investigation into the commission of a crime where there is a reasonable suspicion that the crime is a felony and that the information would lead to relevant evidence. The information provided pursuant to this subdivision shall be provided to the extent permitted by federal law and regulations, and to the extent the information is available and accessible within the constraints and configurations of existing department records. Any person who receives any information under this subdivision shall make a written report of the information to the law enforcement agency that employs him or her, for filing under the normal procedures of that agency. Any officer or employee of the department who discloses information in violation of this subdivision is guilty of a misdemeanor. Any person who obtains information in violation of this subdivision is guilty of a misdemeanor.

(1) This subdivision shall not be construed to authorize the release of a general list identifying individuals applying for or receiving benefits to any law enforcement agency.

(2) The department shall maintain records pursuant to this subdivision only for periods required under regulations or statutes enacted for the administration of its programs.

(3) This subdivision shall not be construed as limiting the information provided to law enforcement agencies to that pertaining only to applicants for, or recipients of, benefits.

(4) The department shall notify all applicants for benefits that release of confidential information from their records will not be protected should there be a felony arrest warrant issued against the applicant or in the event of an investigation by a law enforcement agency into the commission of a felony.

(*l*) Nothing in this section shall be construed to authorize or permit the use of information obtained in the administration of this

code by any private collection agency.

(m) To provide the State Teachers' Retirement System, pursuant to Section 22242 of the Education Code, with information relating to the earnings of any person who is receiving a disability allowance, or disability retirement allowance, from the State Teachers' Retirement System. The earnings information shall be released to the Teachers' Retirement Board only upon written request from the board specifying that the person is receiving a disability allowance or disability retirement allowance from the system. The request may be made by the chief executive officer of the system or by an employee of the system so authorized and identified by name and title by the chief executive officer in writing.

(n) To provide the Public Employees' Retirement System, pursuant to Section 20143 of the Government Code, with information relating to the earnings of any person who is receiving a disability retirement allowance from the Public Employees' Retirement System. The earnings information shall be released to the Board of Administration of the system only upon written request from the board specifying that the person is receiving a disability retirement allowance from the system. The request may be made by the executive officer of the system or by an employee of the system so authorized and identified by name and title by the executive officer in writing.

(o) To provide the University of California Retirement System with information in its possession relating to the earnings of any person who has applied for or is receiving disability income from the system. The earnings information shall be disclosed only upon written request from the system specifying that the person has applied for or is receiving disability income from the system. The request may be made by the chief administrative officer of the system or by an employee so authorized and identified by name and title by the chief administrative officer in writing. The system shall notify applicants for and recipients of disability income that earnings information from the department's records will be released upon the system's request. The information obtained pursuant to this subdivision shall be used or disclosed by the system only to determine or to verify entitlement to, or continuing eligibility for, disability income. The system shall reimburse the department for all reasonable administrative expenses incurred pursuant to this subdivision.

(p) To enable the Division of Labor Standards Enforcement in the Department of Industrial Relations to seek criminal, civil, or administrative remedies in connection with the failure to pay, or the unlawful payment of, wages pursuant to Chapter 1 (commencing with Section 200) of Part 1 of Division 2 of, and Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of, the Labor Code. The Division of Labor Standards Enforcement shall reimburse the department for all reasonable administrative expenses incurred pursuant to this subdivision.

(q) To enable the federal Department of Health and Human Services, Office of Child Support Enforcement, Federal Parent Locator Service, to administer its child support enforcement programs under Title IV of the Social Security Act (42 U.S.C. Sec. 651 et seq.).

(r) To provide county probation departments with wage and claim information in its possession that will assist those departments in the location of victims of crime who, by state mandate or court order, are entitled to restitution that has been, or can be recovered, and to assist in the collection of money owed to the county or the state by any person who has been directed by state mandate or court order to pay restitution, fines, penalties, assessments, or fees as a result of a violation of law. Information provided about victims of crime shall be limited to data necessary to assist in locating them. The county shall reimburse the department for all reasonable administrative expenses incurred pursuant to this subdivision. Any officer or employee of the department who discloses information in violation of this subdivision is guilty of a misdemeanor. Any person who obtains information in violation of this subdivision is guilty of a misdemeanor.

(s) To provide the Student Aid Commission with information concerning any individuals who are delinquent or in default on guaranteed student loans or who owe repayment of funds received through other financial assistance programs administered by the commission. The information obtained pursuant to this subdivision shall be utilized by the commission exclusively to enable the collection of defaulted loans and other funds owed, pursuant to the authority granted in Chapter 2 (commencing with Section 69500) of Part 42 of the Education Code and Chapter 1 (commencing with Section 30000) of Title 5 of the California Code of Regulations. The information released by the director for the purposes of this subdivision shall not include any employment, wage, or other information concerning any person who is receiving unemployment insurance benefits. The information shall be released to the commission only upon written request from the director of the commission or by an employee so authorized and identified by name and title by the director. The commission shall reimburse the department for all reasonable administrative expenses incurred pursuant to this subdivision.

(t) To provide an authorized governmental agency with any or all relevant information that relates to any specific workers' compensation insurance fraud investigation. The information shall be provided to the extent permitted by federal law and regulations. For the purposes of this subdivision, "authorized governmental agency" means the district attorney of any county, the office of the Attorney General, the Department of Industrial Relations, and the Department of Insurance. An authorized governmental agency may disclose this information to the State Bar, the Medical Board of California, or any other licensing board or department whose

licensee is the subject of a workers' compensation insurance fraud investigation. This subdivision shall not prevent any authorized governmental agency from reporting to any board or department the suspected misconduct of any licensee of that body. The Department of Insurance or Department of Industrial Relations shall reimburse the department for all reasonable administrative expenses incurred relative to a request that it submits pursuant to this subdivision. Relevant information may include, but is not limited to, all of the following:

(1) Copies of unemployment and disability insurance application and claim forms and copies of any supporting medical records, documentation, and records pertaining thereto.

(2) Copies of returns filed by an employer pursuant to Section 1088 and copies of supporting documentation.

(3) Copies of benefit payment checks issued to claimants.

(4) Copies of any documentation that specifically identifies the claimant by social security number, residence address, or telephone number.

SEC. 19. Section 1095 of the Unemployment Insurance Code is amended to read:

1095. The director shall permit the use of any information in his or her possession to the extent necessary for any of the following purposes:

(a) To properly present a claim for benefits.

(b) To acquaint a worker or his or her authorized agent with his or her existing or prospective right to benefits.

(c) To furnish an employer or his or her authorized agent with information to enable him or her to fully discharge his or her obligations or safeguard his or her rights under this division or Division 3 (commencing with Section 9000). This subdivision, as it relates to Division 3 (commencing with Section 9000), applies only to subdivision (j) of this section.

(d) To enable an employer to receive a reduction in contribution rate.

(e) To enable the Director of Social Services or his or her representatives or the Director of Health Services or his or her representatives, subject to federal law, to verify or determine the eligibility or entitlement of an applicant for, or a recipient of, public social services provided pursuant to the Welfare and Institutions Code, and directly connected with, and limited to, the administration of public social services.

(f) To enable county administrators of general relief or assistance, or their representatives, to determine entitlement to locally provided general relief or assistance, where the determination is directly connected with, and limited to, the administration of general relief or assistance.

(g) To enable county district attorneys, or their representatives, to seek criminal, civil, or administrative remedies in connection with the unlawful application for, or receipt of, relief provided under

Division 9 (commencing with Section 10000) of the Welfare and Institutions Code.

(h) To enable the director or his or her representative to carry out his or her responsibilities under this code.

(i) To enable county departments of collection or their representatives to determine entitlement to medical assistance services rendered pursuant to Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code, and, when appropriate, to enable collection for the county's expenditures for these medical assistance services.

(j) To furnish an employer, or his or her authorized agent, with information including, but not limited to, the applicant's or recipient's name, social security number, address, employable skills, and job placement in order to enable him or her to fully discharge his or her obligations or safeguard his or her rights under the elements of a joint union, management, and Employment Development Department agreement as are deemed necessary to assist displaced workers to obtain new employment under the provisions of Chapter 2.9 (commencing with Section 9970) of Part 1 of Division 3 and related provisions of Division 3 (commencing with Section 9000). The information shall be limited to any information gathered under these divisions by the department and authorized for release by the labor organization which shall act as an agent for the affected workers under terms of the agreement and shall participate in defining the information release provisions.

(k) To provide any law enforcement agency with the name, address, telephone number, birth date, social security number, physical description, and names and addresses of present and past employers, of any victim, suspect, missing person, potential witness, or person for whom a felony arrest warrant has been issued, when a request for this information is made by any investigator or peace officer as defined by Sections 830.1 and 830.2 of the Penal Code and designated by the head of the law enforcement agency and who requests this information in the course of and as a part of an investigation into the commission of a crime where there is a reasonable suspicion that the crime is a felony and that the information would lead to relevant evidence. The information provided pursuant to this subdivision shall be provided to the extent permitted by federal law and regulations, and to the extent the information is available and accessible within the constraints and configurations of existing department records. Any person who receives any information under this subdivision shall make a written report of the information to the law enforcement agency that employs him or her, for filing under the normal procedures of that agency. Any officer or employee of the department who discloses information in violation of this subdivision is guilty of a misdemeanor. Any person who obtains information in violation of this subdivision is guilty of a misdemeanor.

(1) This subdivision shall not be construed to authorize the release

of a general list identifying individuals applying for or receiving benefits to any law enforcement agency.

(2) The department shall maintain records pursuant to this subdivision only for periods required under regulations or statutes enacted for the administration of its programs.

(3) This subdivision shall not be construed as limiting the information provided to law enforcement agencies to that pertaining only to applicants for, or recipients of, benefits.

(4) The department shall notify all applicants for benefits that release of confidential information from their records will not be protected should there be a felony arrest warrant issued against the applicant or in the event of an investigation by a law enforcement agency into the commission of a felony.

(*l*) Nothing in this section shall be construed to authorize or permit the use of information obtained in the administration of this code by any private collection agency.

(m) To provide the State Teachers' Retirement System, pursuant to Section 22242 of the Education Code, with information relating to the earnings of any person who is receiving a disability allowance, or disability retirement allowance, from the State Teachers' Retirement System. The earnings information shall be released to the Teachers' Retirement Board only upon written request from the board specifying that the person is receiving a disability allowance or disability retirement allowance from the system. The request may be made by the chief executive officer of the system or by an employee of the system so authorized and identified by name and title by the chief executive officer in writing.

(n) To provide the Public Employees' Retirement System, pursuant to Section 20143 of the Government Code, with information relating to the earnings of any person who is receiving a disability retirement allowance from the Public Employees' Retirement System. The earnings information shall be released to the Board of Administration of the system only upon written request from the board specifying that the person is receiving a disability retirement allowance from the system. The request may be made by the executive officer of the system or by an employee of the system so authorized and identified by name and title by the executive officer in writing.

(o) To provide the University of California Retirement System with information in its possession relating to the earnings of any person who has applied for or is receiving disability income from the system. The earnings information shall be disclosed only upon written request from the system specifying that the person has applied for or is receiving disability income from the system. The request may be made by the chief administrative officer of the system or by an employee so authorized and identified by name and title by the chief administrative officer in writing. The system shall notify applicants for and recipients of disability income that earnings information from the department's records will be released upon the

system's request. The information obtained pursuant to this subdivision shall be used or disclosed by the system only to determine or to verify entitlement to, or continuing eligibility for, disability income. The system shall reimburse the department for all reasonable administrative expenses incurred pursuant to this subdivision.

(p) To enable the Division of Labor Standards Enforcement in the Department of Industrial Relations to seek criminal, civil, or administrative remedies in connection with the failure to pay, or the unlawful payment of, wages pursuant to Chapter 1 (commencing with Section 200) of Part 1 of Division 2 of, and Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of, the Labor Code. The Division of Labor Standards Enforcement shall reimburse the department for all reasonable administrative expenses incurred pursuant to this subdivision.

(q) To enable the federal Department of Health and Human Services, Office of Child Support Enforcement, Federal Parent Locator Service, to administer its child support enforcement programs under Title IV of the Social Security Act (42 U.S.C. Sec. 651 et seq.).

(r) To provide county probation departments with wage and claim information in its possession that will assist those departments in the location of victims of crime who, by state mandate or court order, are entitled to restitution that has been, or can be recovered, and to assist in the collection of money owed to the county or the state by any person who has been directed by state mandate or court order to pay restitution, fines, penalties, assessments, or fees as a result of a violation of law. Information provided about victims of crime shall be limited to data necessary to assist in locating them. The county shall reimburse the department for all reasonable administrative expenses incurred pursuant to this subdivision. Any officer or employee of the department who discloses information in violation of this subdivision is guilty of a misdemeanor. Any person who obtains information in violation of this subdivision is guilty of a misdemeanor.

(s) To provide the Student Aid Commission with information concerning any individuals who are delinquent or in default on guaranteed student loans or who owe repayment of funds received through other financial assistance programs administered by the commission. The information obtained pursuant to this subdivision shall be utilized by the commission exclusively to enable the collection of defaulted loans and other funds owed, pursuant to the authority granted in Chapter 2 (commencing with Section 69500) of Part 42 of the Education Code and Chapter 1 (commencing with Section 30000) of Title 5 of the California Code of Regulations. The information released by the director for the purposes of this subdivision shall not include any employment, wage, or other information concerning any person who is receiving unemployment insurance benefits. The information shall be released to the

commission only upon written request from the director of the commission or by an employee so authorized and identified by name and title by the director. The commission shall reimburse the department for all reasonable administrative expenses incurred pursuant to this subdivision.

(t) To provide an authorized governmental agency with any or all relevant information that relates to any specific workers' compensation insurance fraud investigation. The information shall be provided to the extent permitted by federal law and regulations. For the purposes of this subdivision, "authorized governmental agency" means the district attorney of any county, the office of the Attorney General, the Department of Industrial Relations, and the Department of Insurance. An authorized governmental agency may disclose this information to the State Bar, the Medical Board of California, or any other licensing board or department whose licensee is the subject of a workers' compensation insurance fraud investigation. This subdivision shall not prevent any authorized governmental agency from reporting to any board or department the suspected misconduct of any licensee of that body. The Department of Insurance or Department of Industrial Relations shall reimburse the department for all reasonable administrative expenses incurred relative to a request that it submits pursuant to this subdivision. Relevant information may include, but is not limited to, all of the following:

(1) Copies of unemployment and disability insurance application and claim forms and copies of any supporting medical records, documentation, and records pertaining thereto.

(2) Copies of returns filed by an employer pursuant to Section 1088 and copies of supporting documentation.

(3) Copies of benefit payment checks issued to claimants.

(4) Copies of any documentation that specifically identifies the claimant by social security number, residence address, or telephone number.

(u) To provide employment tax information to the tax officials of Mexico, if a reciprocal agreement exists. For purposes of this subdivision, "reciprocal agreement" means a formal agreement to exchange information between national taxing officials of Mexico and taxing authorities of the State Board of Equalization, the Franchise Tax Board, and the Employment Development Department. Furthermore, the reciprocal agreement shall be limited to the exchange of information which is essential for tax administration purposes only. Taxing authorities of the State of California shall be granted tax information only on California residents. Taxing authorities of Mexico shall be granted tax information only on Mexican nationals.

SEC. 20. Section 19 of this bill incorporates amendments to Section 1095 of the Unemployment Insurance Code proposed by both this bill and AB 1881. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1994, (2) each

bill amends Section 1095 of the Unemployment Insurance Code, and (3) this bill is enacted after AB 1881, in which case Section 18 of this bill shall not become operative.

CHAPTER 1145

An act to amend Sections 25174.1, 25174.7, 25200.2, 25205.1, 25205.2, 25205.5, 25205.7, 25205.12, 25205.15, and 25360 of, to add Sections 25205.3, 25205.17, 25205.18, 25205.19, 25205.20, 25205.21, 25205.22, 25205.23, and 25359.8 to, to repeal and add Sections 25153 and 25343 of, and to repeal Section 25344 of, the Health and Safety Code, and to amend Sections 43152.7 and 43551 of, to add Section 43555 to, and to repeal Section 43552 of, the Revenue and Taxation Code, relating to hazardous substances and petroleum.

[Approved by Governor October 10, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 25153 of the Health and Safety Code is repealed.

SEC. 2. Section 25153 is added to the Health and Safety Code, to read:

25153. The offsite storage, treatment, transportation, and disposal of extremely hazardous waste is subject to the same requirements specified in this chapter that are applicable to hazardous waste and the department shall not require any special or additional permits for the offsite handling or management of extremely hazardous waste.

SEC. 3. Section 25174.1 of the Health and Safety Code is amended to read:

25174.1. (a) Each person who disposes of hazardous waste, or who annually submits more than 500 pounds of hazardous waste for disposal, including, but not limited to, land treatment, in the state shall pay a fee directly to the State Board of Equalization for the disposal of hazardous waste to land.

(b) "Disposal fee" means the fee imposed by this section.

(c) Each operator at any facility, including, but not limited to, all Class II and Class III landfills, as defined in Sections 2532 and 2533 of Title 23 of the California Code of Regulations, at which hazardous wastes are disposed, shall pay a fee directly to the State Board of Equalization for the disposal of those wastes, except that the site operator is not required to pay the fee for a hazardous waste if the person submitting the waste for disposal provides the operator with a properly completed manifest for that waste which includes that person's Hazardous Waste Tax Account number, as assigned by the State Board of Equalization, and the site operator submits a copy of the manifest to the State Board of Equalization in the time and

manner as it may prescribe.

(d) The State Board of Equalization shall deposit the fees collected pursuant to this section in the Hazardous Waste Control Account, for expenditure by the department, upon appropriation by the Legislature, pursuant to this chapter and Chapter 6.8 (commencing with Section 25300).

SEC. 4. Section 25174.7 of the Health and Safety Code is amended to read:

25174.7. (a) The fees provided for in Sections 25174.1 and 25205.5 do not apply to any of the following:

(1) Hazardous wastes which result when a government agency, or its contractor, removes or remedies a release of hazardous waste in the state caused by another person.

(2) Hazardous wastes generated or disposed of by a public agency operating a household hazardous waste collection facility in the state pursuant to Article 10.8 (commencing with Section 25218), including, but not limited to, hazardous waste received from conditionally exempt small quantity commercial generators, authorized pursuant to Section 25218.3.

(3) Hazardous wastes generated or disposed of by local vector control agencies which have entered into a cooperative agreement pursuant to Section 2426 or by county agricultural commissioners, if the hazardous wastes result from their control or regulatory activities and if they comply with the requirements of this chapter and regulations adopted pursuant thereto.

(4) Hazardous waste disposed of, or submitted for disposal or treatment, by any person, which is discovered and separated from solid waste as part of a load checking program.

(b) Notwithstanding paragraph (1) of subdivision (a), any person responsible for a release of hazardous waste, which has been removed or remedied by a government agency, or its contractor, shall pay the fee pursuant to Section 25174.1.

(c) Any person who acquires land for the sole purpose of owner-occupied single-family residential use, and who acquires that land without actual or constructive notice or knowledge that there is a tank containing hazardous waste on or under that property, is exempt from the fees imposed pursuant to Sections 25174.1, 25205.5, and 25345, in connection with the removal of the tank.

SEC. 5. Section 25200.2 of the Health and Safety Code is amended to read:

25200.2. (a) The department shall develop a permitting process for transportable hazardous waste treatment units for treating waste in accordance with the requirements of the federal act and with the requirements of this chapter for hazardous wastes which are not otherwise subject to the federal act.

(b) The operator of a transportable hazardous waste treatment unit shall pay the same annual fee as facilities authorized to operate pursuant to a permit-by-rule specified in subdivision (a) of Section 25205.14. The operator of a unit is exempt from paying the facility fee

specified in Section 25205.2 for any year or reporting period during which the unit was operating for any activity authorized under permit, except as specified in subdivision (b) of Section 25205.12.

SEC. 6. 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, storage, disposal, or recycling of hazardous waste, for which a permit or a grant of interim status has been issued by the department for that activity pursuant to Article 9 (commencing with Section 25200).

(c) "Large storage facility," in those cases where total storage capacity is provided in a permit, interim status document, or federal Part A application for the facility, means a storage facility with capacity to store 1,000 or more tons of hazardous waste. In those cases where it is not so provided, "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," in those cases where total treatment capacity is provided in a permit, interim status document, or federal Part A application for the facility, means a treatment facility with capacity to treat, land treat, or recycle 1,000 or more tons of hazardous waste. In those cases where it is not so provided, "large treatment facility" means a treatment facility which treats, land 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 hazardous waste at an individual site commencing on or after July 1, 1988. A generator includes, but is not limited to, a person who is identified on a manifest as the generator and whose identification number is listed on that manifest, if that identifying information was provided by that person or by an agent or employee of that person.

(f) "Ministorage facility," in those cases where total storage capacity is provided in a permit, interim status document, or federal Part A application for the facility, means a storage facility with capacity to store 0.5 tons (1,000 pounds) or less of hazardous waste. In those cases where it is not so provided, "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," in those cases where total treatment capacity is provided in a permit, interim status document, or federal Part A application for the facility, means a treatment facility with capacity to treat, land treat, or recycle 0.5 tons (1,000 pounds) or less of hazardous waste. In those cases where is it not so provided,

"minitreatment facility, means a treatment facility which treats, land 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," in those cases where total storage capacity is provided in a permit, interim status document, or federal Part A application for the facility, means a storage facility with capacity to store more than 0.5 tons (1,000 pounds), but less than 1,000 tons of hazardous waste. In those cases where it is not so provided, "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," in those cases where total treatment capacity is provided in a permit, interim status document, or federal Part A application for the facility, means a treatment facility with capacity to treat, land treat, or recycle more than 0.5 tons (1,000 pounds), but less than 1,000 tons of hazardous waste. In those cases where it is not so provided, "small treatment facility," means a treatment facility which treats, land 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) "Unit" means a hazardous waste management unit, as defined in regulations adopted by the department. Where an area is designated as a hazardous waste management unit in a permit it shall be conclusively presumed that the area is a "unit."

(*l*) "Class 1 modification," "class 2 modification," and "class 3 modification" have the meanings provided in regulations adopted by the department.

(m) "Hazardous waste" has the meaning provided in Section 25117. The total tonnage of hazardous waste, unless otherwise provided by law, includes the hazardous substance as well as any soil or other substance which is commingled with the hazardous substance.

(n) "Land treat" means to apply hazardous waste onto or incorporate it into the soil surface for the sole and express purpose of degrading, transforming, or immobilizing the hazardous constituents.

(o) "Treatment," "storage," and "disposal" means only that treatment, storage, or disposal of hazardous waste engaged in at a facility pursuant to a permit or grant of interim status issued by the department pursuant to Article 9 (commencing with Section 25200). Treatment, storage, or disposal that does not require such a permit or grant of interim status shall not be considered treatment, storage, or disposal for purposes of this article.

(1) "Disposal" includes only the placement of hazardous waste onto or into the ground for permanent disposition and does not include the placement of hazardous waste in surface impoundments, as defined in regulations adopted by the department, or the placement of hazardous waste onto or into the ground solely for purposes of land treatment.

(2) "Storage" does not include the ongoing presence of hazardous wastes in the ground or in surface impoundments after the facility has permanently discontinued accepting new hazardous wastes for placement into the ground or into surface impoundments.

SEC. 7. Section 25205.2 of the Health and Safety Code is amended to read:

25205.2. (a) Except as provided in subdivisions (c) and (h), 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-rule, 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 is not subject to the fee, for any reporting period following the reporting period in which the variance was granted by the department.

(d) Operators subject to facility fee liability pursuant to this section shall pay the following amounts:

(1) The operator shall pay the applicable facility fee for each reporting period in which the facility actually engaged in the treatment, storage, or disposal of hazardous waste.

(2) The operator shall pay the applicable facility fee for one additional reporting period immediately following the final reporting period in which the facility actually engaged in that treatment or storage. For the 1994 reporting period and thereafter, the facility's size for that additional reporting period shall be deemed to be the largest size at which the facility has ever been subject to the fee. If the department previously approved a unit or portion of the facility for a variance, closure, or permit-by-rule, the facility's size for that reporting period shall be deemed to be its largest size since the department granted the approval.

(3) The operator of a disposal facility shall pay twice the applicable facility fee for one additional reporting period immediately following the final reporting period in which the facility actually engaged in disposal of hazardous waste.

(4) For the 1994 reporting period and thereafter, a facility shall not be deemed to have stopped treating, storing, or disposing of hazardous waste unless it has actually ceased that activity and has notified the department of its intent to close.

(5) If the reporting period which immediately followed the final reporting period in which a facility actually engaged in the treatment, storage, or disposal of the hazardous waste was the six-month period from July 1, 1991, through December 31, 1991, the operator shall be subject to twice the fee otherwise applicable to that operator for that reporting period under paragraphs (2) and (3).

(e) No facility shall be subject to a facility fee for treatment, storage, or disposal, if that activity took place before July 1, 1986, and if the fee for the activity was not paid prior to January 1, 1994.

(f) Notwithstanding any other provision of this section, a person who ceased actual treatment, storage, or disposal of hazardous waste, whether generated onsite or received from offsite, before July 1, 1986, and who paid facility fees for any reporting period after that date pursuant to a decision of the Board of Equalization and who filed a claim for refund of those fees on or before January 1, 1994, shall be entitled to a refund of those amounts.

(g) Facility operators who treated, stored, or disposed of hazardous waste on or after July 1, 1986, shall be subject to the provisions of this section which were in effect prior to January 1, 1994, as to payments which their operators made prior to January 1, 1994. The operators shall be subject to subdivision (d) as to any other liability for the facility fee.

(h) A treatment facility is not subject to the facility fee established pursuant to this section, if the facility engages in treatment exclusively to accomplish a removal or remedial action or a corrective action in accordance with an order issued by the Environmental Protection Agency pursuant to the federal act or in accordance with an order issued by the department pursuant to Section 25187, if the facility was put in operation solely for purposes of complying with that order. The department shall instead assess a fee for that facility for the actual time spent by the department for the inspection and oversight of that facility. The department shall base the fee on the department's work standards and shall assess the fee on an hourly basis.

(i) Notwithstanding subdivision (a), a facility operating pursuant to a standardized permit, as specified in Section 25201.6, is exempt from the annual facility fee imposed by this section for a period of time equal to the number of years that the facility lawfully operated prior to the operative date of Senate Bill 27 of the 1993–94 Regular Session of the Legislature, pursuant to a hazardous waste facilities permit or other grant of authorization and paid facility fees for the

operation of the facility pursuant to this section.

SEC. 8. Section 25205.3 is added to the Health and Safety Code, to read:

25205.3. The following facilities are exempt from the fees imposed by this article:

(a) Any household hazardous waste collection facility operated pursuant to Article 10.8 (commencing with Section 25218).

(b) 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 wastes which meet the requirements of paragraph (3) of subdivision (a) of Section 25174.7.

(c) That portion of a solid waste 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.

(d) A facility used solely for the treatment, storage, disposal, or recycling of hazardous waste which results when a public agency or its contractor investigates, removes, or remedies a release of hazardous waste caused by another person.

(e) (1) For purposes of fees assessed in any reporting period beginning July 1, 1990, or subsequently, a facility which has been issued a permit for the purpose of storing hazardous waste onsite, and whose permit has expired, if all of the following has occurred:

(A) The facility has received no waste from offsite since the permit expired.

(B) The owner or operator gave the department timely notification of intent to close the facility, pursuant to regulations adopted by the department.

(C) At least 90 days have elapsed since the owner or operator gave the department that notification.

(D) The department did not complete its review of the closure plan within 90 days of receiving the notification.

(2) This exclusion shall take effect the reporting period following the reporting period in which the facility first satisfied the requirements of paragraph (1) and did not accumulate waste onsite for more than 90 consecutive days.

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 calendar year for which the generator fee is due.

(b) (1) 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.

(2) (A) The base fee rate is three thousand one hundred ten dollars ($3,110).

(B) 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.

(C) 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.

(D) 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.

(E) 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.

(F) 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.

(G) 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.

(H) 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 1993 calendar 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-rule, or pursuant to Section 25200.3 or 25201.5. However, hazardous waste generated by a treatment unit treating waste pursuant to a permit-by-rule, by a unit which subsequently obtains a permit-by-rule, or other authorization pursuant to Section 25200.3 or 25201.5 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 by Chapter 1125 of the

Statutes of 1991 does not constitute a change in, but is declaratory of, existing law.

SEC. 10. 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 fee shall be nonrefundable, even if the application is withdrawn or the permit, variance, or modification 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 person who submits a single application for a facility that falls within more than one fee category 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 to the department. For a facility operating pursuant to interim status, the submittal of the application shall be the submittal of the Part B application in accordance with regulations adopted by the department. A person who submits an application for renewal of any existing permit shall pay an amount equal to the fee that would have been assessed had the person requested the same changes in a modification application, but not less than one-half the fee required for a new permit.

(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) (1) Except as provided in paragraphs (2) and (3), a person submitting a hazardous waste facility 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.

(2) A person submitting an application for a standardized permit

for a storage facility, a treatment facility, or a storage and treatment facility, as specified in Section 25201.6, shall pay thirty thousand fifty-one dollars ($30,051) for a series A standardized permit, eighteen thousand seven hundred sixty-two dollars ($18,762) for a series B standardized permit, and five thousand dollars ($5,000) for a series C standardized permit. The board shall assess these fees based upon the classifications specified in subdivision (a) of Section 25201.6.

(3) In addition to the fees specified in paragraph (2), the board shall assess a fee equal to the department's costs in reviewing and overseeing any corrective action program described in the application for a standardized permit pursuant to subparagraph (C) of paragraph (2) of subdivision (c) of Section 25201.6, and in reviewing and overseeing any corrective action work undertaken at the facility pursuant to that corrective action program.

(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.

(A) A person submitting a request for a variance not otherwise listed in this paragraph shall pay eight thousand dollars ($8,000), unless the applicant is a small business and the department determines in its discretion that payment of this fee would cause financial or other unreasonable hardship to the applicant. If that finding is made, the department may assess the applicant up to 50 percent of the standard fee. For the purposes of this subparagraph, "small business" means a business which is independently owned and operated, has 25 employees or less, and has a gross annual income which does not exceed two million dollars ($2,000,000).

(B) 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 (h).

(3) Any variance granted pursuant to Article 3 (commencing

with Section 66260.21) of Chapter 10 of Division 4.5 of Title 22 of the California Code of Regulations is not subject to a fee under this section.

(h) (1) A person who applies for one or more class 1 permit modifications shall pay a fee of five hundred dollars ($500) for each unit directly impacted by the modification, up to a maximum of one thousand five hundred dollars ($1,500) for each application.

(2) A person who applies for one or more class 2 permit modifications shall pay a fee equal to 20 percent of the fee for a new permit for that facility for each unit directly impacted by the modifications, up to a maximum of 40 percent for each application, except that each person who applies for one or more class 2 permit modifications for a land disposal facility or an incinerator shall pay a fee equal to 15 percent of the fee for a new permit for that facility for each unit directly impacted by the modifications, up to a maximum of 30 percent for each application.

(3) A person who applies for one or more class 3 permit modifications shall pay a fee equal to 40 percent of the fee for a new permit for that facility for each unit directly impacted by the modifications, up to a maximum of 80 percent for each application, except that a person who applies for one or more class 3 permit modifications for a land disposal facility shall pay a fee equal to 30 percent of the fee for a new permit for that facility for each unit directly impacted by the modifications, up to a maximum of 60 percent for each modification.

(i) 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 (j), 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.

(j) 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.

(k) 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.

(*l*) The fees assessed pursuant to this section do not apply to any of the following:

(1) Any variance issued to a public agency to transport wastes for purposes of operating a household hazardous waste collection facility, or to transport waste from a household hazardous waste collection facility, which receives household hazardous waste or hazardous waste from conditionally exempted small quantity generators pursuant to Article 10.8 (commencing with Section 25218).

(2) A permanent household hazardous waste collection facility.

(3) Any variance issued to a public agency to conduct a collection program for agricultural wastes.

(m) Except as provided in paragraph (3) of subdivision (e), the department shall not access any fees for the department's costs in reviewing and overseeing a corrective action taken in conjunction with a hazardous waste facility permit application.

(n) The fees assessed pursuant to subdivision (h) 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.

(o) Any person producing or transporting extremely hazardous waste shall pay a fee to the department of two hundred dollars ($200) per calendar year, in addition to any other fee imposed by this section. The fee shall be collected by the department annually.

SEC. 11. Section 25205.12 of the Health and Safety Code is amended to read:

25205.12. (a) The owner of a hazardous waste facility authorized by the department to operate pursuant to a permit-by-rule, authorized under a grant of conditional authorization pursuant to Section 25200.3, exempted pursuant to subdivision (a) or (c) of Section 25201.5, or exempted pursuant to Section 25144.6 is exempt from the facility fee specified in Section 25205.2 for any activities authorized by the permit-by-rule, under a grant of conditional authorization pursuant to Section 25200.3, exempted pursuant to subdivision (a) or (c) of Section 25201.5, or exempted pursuant to Section 25144.6 at that facility for any year or reporting period during which the facility is operating.

(b) The retroactive portion of the facility fee exemption provided

by subdivision (a) does not apply to any facility which was authorized by the department to operate on or before June 1, 1991, for any fees paid or billed prior to September 1, 1992.

(c) The operator of a hazardous waste facility authorized by the department to clean and recycle excavated underground storage tanks is exempt from the facility fee specified in Section 25205.2 with regard to these activities conducted before January 1, 1994, and these activities conducted after that date, until the effective date of a regulation adopted by the department governing the statewide requirements for the issuance of a permit for tank cleaning and recycling facilities.

(d) The operator of a hazardous waste facility eligible to operate pursuant to a standardized permit, as specified in Section 25201.6, is exempt from the facility fee specified in Sections 25205.2 and 25205.4 for any year or reporting period prior to January 1, 1993, during which the facility operated, if the hazardous waste treatment or storage activity was conducted prior to January 1, 1993, and the owner or operator is in compliance with the notification and application requirements of Section 25201.6, as amended in the 1993–94 Regular Session of the Legislature, or as amended thereafter, and either of the following circumstances apply:

(1) The owner or operator was not authorized by the department before July 1, 1993, to conduct the eligible treatment or storage activity.

(2) The owner or operator did not pay a hazardous waste facility fee, as specified in Section 25205.2, for that year or reporting period prior to July 1, 1993, for the facility that is the subject of the standardized permit.

SEC. 12. Section 25205.15 of the Health and Safety Code is amended to read:

25205.15. (a) Except for the first four manifests used in a calendar year by a business with less than 100 employees, the department shall impose a fee of twelve dollars ($12) for each California Uniform Hazardous Waste Manifest form used by any person in the following manner:

(1) The Governor may, in his or her discretion, order the department to refund three-quarters of the amount of manifest fees paid on manifests used during the 1991 calendar year.

(2) On and after the 1992 calendar year, the manifest fee shall be assessed on all manifests used in the calendar year ending prior to the start of the fiscal year in which the billing occurs.

(B) The manifest fee for any manifest that is used solely for wastes which are to be recycled is six dollars ($6) and the total amount of manifest fees paid in a calendar year for these manifests shall not exceed five thousand dollars ($5,000) for each hazardous waste identification number issued either by the department or the Environmental Protection Agency.

(c) The manifest fees shall be deposited in the Hazardous Waste Control Account and be available for expenditure, upon

appropriation by the Legislature, in accordance with this chapter and Chapter 6.8 (commencing with Section 25300).

SEC. 13. Section 25205.17 is added to the Health and Safety Code, to read:

25205.17. Notwithstanding any other provision of law, no facility for any reporting period prior to 1994 shall be a "disposal facility" for purposes of the annual facility fee if that facility had a permit or interim status document issued by the department which designated that facility or any part of its process as "storage" or "treatment" and did not designate that facility or any part of its process as "disposal" or "landfill."

SEC. 14. Section 25205.18 is added to the Health and Safety Code, to read:

25205.18. (a) If a facility has a permit or an interim status document which sets forth the facility's allowable capacity for treatment or storage, the facility's size for purposes of the annual facility fee shall be based upon that capacity, except as provided in subdivision (d).

(b) If a facility's allowable capacity changes or is initially established as a result of a permit modification, or a submission of a certification pursuant to subdivision (d), the fee that is due for the reporting period in which the change occurs shall be the lower fee until December 31, 1994. After that date, the fee that is due for the reporting period in which a change occurs shall be the higher fee.

(c) The department may require the facility to submit an application to modify its permit to provide for an allowable capacity. An application required by the department pursuant to this subdivision shall not be subject to a modification application fee pursuant to Section 25205.7.

(d) A facility may reduce its allowable capacity below the amounts specified in subdivision (a) or (c) by submitting a certification signed by the owner or operator in which owner or operator pledges that the facility will not handle hazardous waste at a capacity above the amount specified in the certification. In that case, the facility's size for purposes of the annual facility fee shall be based upon the capacity specified in the certification, until the certification is withdrawn. Exceeding the capacity limits specified in a certification that has not been withdrawn shall be a violation of the hazardous waste control law and may subject a facility or its operator to a penalty and corrective action as provided in this chapter, including, but not limited to, an augmentation pursuant to Section 25191.1.

(e) This section shall have no bearing on the imposition of the annual postclosure facility fee.

SEC. 15. Section 25205.19 is added to the Health and Safety Code, to read:

25205.19. (a) If a facility has a permit or an interim status document which sets forth the facility's type, pursuant to Section 25205.1, as either treatment, storage, or disposal, the facility's type for

purposes of the annual facility fee shall be rebuttably presumed to be what is set forth in that permit or document.

(b) If the facility's type changes as a result of a permit or interim status modification, any change in the annual facility fee shall be effective the reporting period following the one in which the modification becomes effective.

(c) If the facility's permit or interim status document does not set forth its type, the department may require the facility to submit an application to modify the permit or interim status document to provide for a facility type. An application pursuant to this subdivision shall not be subject to a modification application fee pursuant to Section 25205.7.

(d) A permit or interim status document may set forth more than one facility type or size. In accordance with subdivision (e) of Section 25205.4, the facility shall be subject only to the highest applicable fee.

SEC. 16. Section 25205.20 is added to the Health and Safety Code, to read:

25205.20. (a) In issuing a variance, the department may, for purposes of the annual facility fee only, make the variance retroactive to not earlier than one year after the date of the variance application's submittal to the department, or January 1, 1994, whichever is later.

(b) A facility which is subject to the annual facility fee shall pay such fee while the variance application is pending. Within one year of the issuance of the variance, the board shall issue a refund of facility fees paid for all reporting periods following the period to which the variance is retroactive. The refund shall not include interest.

(c) Variance, for purposes of this section, means a variance from the requirement of obtaining a hazardous waste facilities permit or grant of interim status.

SEC. 17. Section 25205.21 is added to the Health and Safety Code, to read:

25205.21. (a) Notwithstanding Section 25205.4, a disposal facility operator which is a government agency shall be subject to a maximum facility fee of ten thousand dollars ($10,000) for any reporting period of 12 months and five thousand dollars ($5,000) for any reporting period of six months, for that disposal facility for any reporting period in which it did not at any time dispose of hazardous waste therein. This section shall apply to all reporting periods since the inception of the facility fee up to and including the reporting period ending December 31, 1998.

(b) Prior to January 1, 1998, no interest or penalty shall accrue on any amount owed by an operator pursuant to subdivision (a).

(c) This section shall not affect the imposition of the annual postclosure facility fee.

SEC. 18. Section 25205.22 is added to the Health and Safety Code, to read:

25205.22. Any facility receiving non-RCRA hazardous waste imported into this state for purposes of treatment, recycling, or disposal shall be considered the generator of that waste and the facility shall be considered the site of generation for purposes of payment of the generator fee pursuant to Section 25205.5, and the facility operator shall pay the applicable generator fee even if the operator has also paid a facility fee, but no generator fee shall be assessed for non-RCRA hazardous waste imported prior to January 1, 1994.

SEC. 19. Section 25205.23 is added to the Health and Safety Code, to read:

25205.23. Notwithstanding Chapter 3 (commencing with Section 43151) of Part 22 of Division 2 of the Revenue and Taxation Code, at the request of any party contesting any fee imposed pursuant to this chapter or Chapter 6.8 (commencing with Section 25300), the department may hold an informal conference to attempt to settle the dispute. Upon the payment of any sum agreed upon between the contesting party and the department in settlement of the disputed fee liability, the liable person shall be released from any further liability for payment of the disputed fee.

SEC. 20. Section 25343 of the Health and Safety Code is repealed.

SEC. 21. Section 25343 is added to the Health and Safety Code, to read:

25343. (a) Upon request by the department, the board shall assess a fee of eight thousand dollars ($8,000) for the costs incurred by the department for its oversight of a preliminary endangerment assessment at a site. The fee may be assessed upon any potentially responsible parties for that site or upon any persons who have notified the department of their intent to undertake removal or remediation at the site, but the total amount retained from all parties shall not exceed eight thousand dollars ($8,000). This section shall not be a limitation on the department's authority to recover its costs in excess of the amount it receives pursuant to this section.

(b) A person who is subject to the fee pursuant to this section shall pay the fee prior to the commencement of the preliminary endangerment assessment. The amount specified in this section is the base rate for the 1993–94 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) If a person pays the department an amount equal to or exceeding eight thousand dollars ($8,000) pursuant to an agreement which expressly provides the payment is for recovery of costs incurred by the department in connection with oversight of a preliminary endangerment assessment, the department shall notify the board to withdraw the assessment.

SEC. 22. Section 25344 of the Health and Safety Code is repealed.

SEC. 23. Section 25359.8 is added to the Health and Safety Code,

to read:

25359.8. (a) Notwithstanding any other provision of law, non-RCRA hazardous waste, excluding asbestos, generated in a remedial action, a removal action, or a corrective action taken pursuant to this chapter, Chapter 6.5 (commencing with Section 25100), Chapter 6.7 (commencing with Section 25280) or Chapter 6.75 (commencing with Section 25299.10), or generated in another cleanup, removal, or remediation of a hazardous substance shall be subject to any fees due under Article 7 (commencing with Section 25170) of Chapter 6.5, at a rate of twelve dollars ($12) per ton, unless the hazardous waste is otherwise exempt from the fee under Article 7 (commencing with Section 25170) of Chapter 6.5.

(b) For purposes of this section, "remedial action" has the same meaning as defined in Section 25322 and "removal action" has the same meaning as defined in Section 25323.

SEC. 24. Section 25360 of the Health and Safety Code is amended to read:

25360. (a) Any costs incurred and payable from the state account, the Site Remediation Account, or the Hazardous Substance Cleanup Fund shall be recovered by the Attorney General, upon the request of the department, from the liable person or persons. The amount of any costs which may be recovered pursuant to this section, for a remedial or removal action paid from the Hazardous Substance Cleanup Fund, shall include the amount paid from that fund and interest on that amount calculated at a rate equal to the interest rate of the bonds sold pursuant to Article 7.5 (commencing with Section 25385).

(b) In addition to the costs specified in subdivision (a), the person or persons are liable to the department for administrative costs in an amount equal to 10 percent of the reasonable cost actually incurred, or five hundred dollars ($500), whichever is greater.

(c) A person who is liable for costs incurred at a site, which are payable from the state account, the Site Remediation Account, or the Hazardous Substance Cleanup Fund, shall have the liability reduced by any fee pursuant to this chapter that was actually paid by that person in connection with that site, including any fee paid pursuant to Section 25343.

(d) The amount of cost determined pursuant to this section shall be recoverable at the discretion of the department, either in a separate action or by way of intervention as of right in an action for contribution or indemnity. Nothing in this section deprives a party of any defense he or she may have.

(e) Moneys recovered by the Attorney General 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 Attorney General shall deposit the amounts recovered into the Hazardous Substance Clearing Account. Moneys deposited in the Hazardous Substance Clearing Account pursuant to this section are available to pay the principal of, and interest on, bonds sold pursuant

to Article 7.5 (commencing with Section 25385).

SEC. 25. Section 43152.7 of the Revenue and Taxation Code is amended to read:

43152.7. (a) The fee imposed pursuant to Section 25205.5 of the Health and Safety Code which is collected and administered under Section 43053 is due and payable on the last day of the month following the end of the calendar year.

(b) Every operator subject to the fee imposed pursuant to Section 25205.5 of the Health and Safety Code shall, on forms prescribed by the board, file an annual return and pay the proper amount of fee due.

(c) The fee imposed by Section 25205.5 of the Health and Safety Code shall be offset by any fees paid by the generator for 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 amount of the credit provided under this subdivision shall not exceed an amount equal to the fees paid to the local agency or the generator fee due under Section 25205.5 of the Health and Safety Code, whichever is less. The credit for local fees paid shall not include fees required under Chapter 6.7 (commencing with Section 25280) or Chapter 6.95 (commencing with Section 25500) of Division 20 of the Health and Safety Code.

SEC. 26. Section 43551 of the Revenue and Taxation Code is amended to read:

43551. All taxes, interest, and penalties imposed and all amounts of tax required to be paid to the state pursuant to Sections 43051, 43053, 43054, and 43055, shall be paid to the board in the form of remittances payable to the State Board of Equalization of the State of California. The board shall transmit the payments to the Treasurer to be deposited in the State Treasury to the credit of the Hazardous Waste Control Account.

SEC. 27. Section 43552 of the Revenue and Taxation Code is repealed.

SEC. 28. Section 43555 is added to the Revenue and Taxation Code, to read:

43555. Notwithstanding Section 43551, all amounts required to be paid to the state pursuant to Section 43051, 43053, 43054, and 43055 by the United States and its agencies and instrumentalities shall be paid to the board in the form of remittances payable to the State Board of Equalization of the State of California. The board shall transmit the payment to the Treasurer to be deposited into the State Treasury to the credit of the Federal Receipts Account, which is hereby created as a subaccount of the Hazardous Waste Control Account, and which may be expended by the department, upon appropriation by the Legislature, for those administrative purposes allowed by federal law.

SEC. 29. It is the intent of the Legislature that any provision of Section 25205.2, 25205.17, 25205.21, or 25205.22 of the Health and

Safety Code, as amended or added at the 1993 session of the 1993–94 Regular Session of the Legislature, that reduces or eliminates hazardous waste facility fees required to be paid under existing law, shall provide amnesty from those fees not yet paid for all persons who failed to pay the required fee under that law. It is the further intent of the Legislature that, except as otherwise provided in subdivision (f) of Section 25205.2 of the Health and Safety Code, those persons who paid the then applicable fees are not entitled to any refund of the fees paid.

SEC. 30. The Legislature finds and declares that any increase in revenues to the Hazardous Waste Control Account resulting from the changes made by this act are offset by the decrease in revenues resulting from the exemptions provided by this act, and therefore, since this act would not result in any net increase in revenues, the act would not impose a tax for purposes of Article XIII A of the California Constitution.

SEC. 31. 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 1146

An act to amend Sections 1357, 1357.02, 1357.03, 1357.035, 1357.06, 1357.09, 1357.11, and 1357.12 of, and to add Section 1357.025 to, the Health and Safety Code, and to amend Sections 10700, 10705, 10705.1, 10706, 10706.5, 10708, 10711, 10713, 10714, 10731, and 12710.1 of, and to add Section 10733.5 to, the Insurance Code, relating to health care, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 10, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 1357 of the Health and Safety Code, as amended by Chapter 217 of the Statutes of 1993, is amended to read:

1357. As used in this article:

(a) "Dependent" means the spouse or child of an eligible employee, subject to applicable terms of the health care plan contract covering the employee, and includes dependents of guaranteed association members if the association elects to include

dependents under its health coverage at the same time it determines its membership composition pursuant to subdivision (o).

(b) "Eligible employee" means either of the following:

(1) Any permanent employee who is actively engaged on a full-time basis in the conduct of the business of the small employer with a normal workweek of at least 30 hours, at the small employer's regular places of business, who has met any statutorily authorized applicable waiting period requirements. The term includes sole proprietors or partners of a partnership, if they are actively engaged on a full-time basis in the small employer's business and included as employees under a health care plan contract of a small employer, but does not include employees who work on a part-time, temporary, or substitute basis. It includes any eligible employee as defined in this paragraph who obtains coverage through a guaranteed association. Employees of employers purchasing through a guaranteed association shall be deemed to be eligible employees if they would otherwise meet the definition except for the number of persons employed by the employer.

(2) Any member of a guaranteed association as defined in subdivision (o).

(c) "In force business" means an existing health benefit plan contract issued by the plan to a small employer.

(d) "Late enrollee" means an eligible employee or dependent who has declined enrollment in a health benefit plan offered by a small employer at the time of the initial enrollment period provided under the terms of the health benefit plan and who subsequently requests enrollment in a health benefit plan of that small employer; provided that the initial enrollment period shall be a period of at least 30 days. It also means any member of an association that is a guaranteed association as well as any other person eligible to purchase through the guaranteed association when that person has failed to purchase coverage during the initial enrollment period provided under the terms of the guaranteed association's plan contract and who subsequently requests enrollment in the plan, provided that the initial enrollment period shall be a period of at least 30 days. However, an eligible employee, an other person eligible for coverage through a guaranteed association pursuant to subdivision (o), or dependent shall not be considered a late enrollee if: (1) the individual meets all of the following: (A) he or she was covered under another employer health benefit plan at the time the individual was eligible to enroll; (B) he or she certified at the time of the initial enrollment that coverage under another employer health benefit plan was the reason for declining enrollment provided that, if the individual was covered under another employer health plan, the individual was given the opportunity to make the certification required by this subdivision and was notified that failure to do so could result in later treatment as a late enrollee; (C) he or she has lost or will lose coverage under another employer health benefit plan as a result of termination of employment of the

individual or of a person through whom the individual was covered as a dependent, change in employment status of the individual or of a person through whom the individual was covered as a dependent, termination of the other plan's coverage, cessation of an employer's contribution toward an employee or dependent's coverage, death of the person through whom the individual was covered as a dependent, or divorce; and (D) he or she requests enrollment within 30 days after termination of coverage or employer contribution toward coverage provided under another employer health benefit plan; (2) the employer offers multiple health benefit plans and the employee elects a different plan during an open enrollment period; (3) a court has ordered that coverage be provided for a spouse or minor child under a covered employee's health benefit plan and request for enrollment is made within 30 days after issuance of the court order; (4) (A) in the case of an eligible employee as defined in paragraph (1) of subdivision (b), the plan cannot produce a written statement from the employer stating that the individual or the person through whom the individual was eligible to be covered as a dependent, prior to declining coverage, was provided with, and signed acknowledgment of an explicit written notice in bold type specifying that failure to elect coverage during the initial enrollment period permits the plan to impose, at the time of the individual's later decision to elect coverage, an exclusion from coverage for a period of 12 months as well as a six-month preexisting condition exclusion, unless the individual meets the criteria specified in paragraph (1), (2), or (3); (B) in the case of an association member who did not purchase coverage through a guaranteed association, the plan cannot produce a written statement from the association stating that the association sent a written notice in bold type to all potentially eligible association members at their last known address prior to the initial enrollment period informing members that failure to elect coverage during the initial enrollment period permits the plan to impose, at the time of the member's later decision to elect coverage, an exclusion from coverage for a period of 12 months as well as a six-month preexisting condition exclusion unless the member can demonstrate that he or she meets the requirements of subparagraphs (A), (C), and (D) of paragraph (1) or paragraph (2) or (3); or (C) in the case of an employer or person who is not a member of an association, was eligible to purchase coverage through a guaranteed association, and did not do so, and would not be eligible to purchase guaranteed coverage unless purchased through a guaranteed association, the employer or person can demonstrate that he or she meets the requirements of subparagraphs (A), (C), and (D) of paragraph (1), or paragraph (2) or (3), or that he or she recently had a change in status that would make him or her eligible and that application for enrollment was made within 30 days of the change.

(e) "New business" means a health care service plan contract issued to a small employer that is not the plan's in force business.

(f) "Preexisting condition provision" means a contract provision

that excludes coverage for charges or expenses incurred during a specified period following the employee's effective date of coverage, as to a condition for which medical advice, diagnosis, care, or treatment was recommended or received during a specified period immediately preceding the effective date of coverage.

(g) "Qualifying prior coverage" means:

(1) Any individual or group policy, contract, or program, that is written or administered by a disability insurer, nonprofit hospital service plan, health care service plan, fraternal benefits society, self-insured employer plan, or any other entity, in this state or elsewhere, and that arranges or provides medical, hospital, and surgical coverage not designed to supplement other private or governmental plans. The term includes continuation or conversion coverage but does not include accident only, credit, disability income, Medicare supplement, long-term care, dental, vision, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical payment insurance, or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(2) The federal Medicare program pursuant to Title XVIII of the Social Security Act.

(3) The medicaid program pursuant to Title XIX of the Social Security Act.

(4) Any other publicly sponsored program, provided in this state or elsewhere, of medical, hospital, and surgical care.

(h) "Rating period" means the period for which premium rates established by a plan are in effect and shall be no less than six months.

(i) "Risk adjusted employee risk rate" means the rate determined for an eligible employee of a small employer in a particular risk category after applying the risk adjustment factor.

(j) "Risk adjustment factor" means the percent adjustment to be applied equally to each standard employee risk rate for a particular small employer, based upon any expected deviations from standard cost of services. This factor may not be more than 120 percent or less than 80 percent until July 1, 1996. Effective July 1, 1996, this factor may not be more than 110 percent or less than 90 percent.

(k) "Risk category" means the following characteristics of an eligible employee: age, geographic region, and family composition of the employee, plus the health benefit plan selected by the small employer.

(1) No more than the following age categories may be used in determining premium rates:

Under 30
30–39
40–49
50–54
55–59

60–64
65 and over

However, for the 65 and over age category, separate premium rates may be specified depending upon whether coverage under the plan contract will be primary or secondary to benefits provided by the federal Medicare program pursuant to Title XVIII of the federal Social Security Act.

(2) Small employer health care service plans shall base rates to small employers using no more than the following family size categories:

(A) Single.

(B) Married couple.

(C) One adult and child or children.

(D) Married couple and child or children.

(3) (A) In determining rates for small employers, a plan that operates statewide shall use no more than nine geographic regions in the state, have no region smaller than an area in which the first three digits of all its ZIP Codes are in common within a county, and divide no county into more than two regions. Plans shall be deemed to be operating statewide if their coverage area includes 90 percent or more of the state's population. Geographic regions established pursuant to this section shall, as a group, cover the entire state, and the area encompassed in a geographic region shall be separate and distinct from areas encompassed in other geographic regions. Geographic regions may be noncontiguous.

(B) In determining rates for small employers, a plan that does not operate statewide shall use no more than the number of geographic regions in the state than is determined by the following formula: the population, as determined in the last federal census, of all counties that are included in their entirety in a plan's service are divided by the total population of the state, as determined in the last federal census, multiplied by nine. The resulting number shall be rounded to the nearest whole integer. No region may be smaller than an area in which the first three digits of all its ZIP Codes are in common within a county and no county may be divided into more than two regions. The area encompassed in a geographic region shall be separate and distinct from areas encompassed in other geographic regions. Geographic regions may be noncontiguous. No plan shall have less than one geographic area.

Nothing in this section shall be construed to require a plan to establish a new service area or to offer health coverage on a statewide basis, outside of the plan's existing service area.

(*l*) "Small employer" means either of the following:

(1) Any person, firm, proprietary or nonprofit corporation, partnership, public agency, or association that is actively engaged in business or service, that, on at least 50 percent of its working days during the preceding calendar quarter, employed at least three, but no more than 50, eligible employees, the majority of whom were employed within this state, which was not formed primarily for

purposes of buying health care service plan contracts and in which a bona fide employer-employee relationship exists. However, for purposes of subdivisions (a), (b), and (c) of Section 1357.03, the definition shall include employers with at least five eligible employees until July 1, 1994, four eligible employees until July 1, 1995, and three eligible employees thereafter. In determining the number of eligible employees, companies that are affiliated companies and that are eligible to file a combined tax return for purposes of state taxation shall be considered one employer. Subsequent to the issuance of a health care service plan contract to a small employer pursuant to this article, and for the purpose of determining eligibility, the size of a small employer shall be determined annually. Except as otherwise specifically provided in this article, provisions of this article that apply to a small employer shall continue to apply until the plan contract anniversary following the date the employer no longer meets the requirements of this definition. It includes any small employer as defined in this paragraph who purchases coverage through a guaranteed association, and any employer purchasing coverage for employees through a guaranteed association.

(2) Any guaranteed association, as defined in subdivision (n), that purchases health coverage for members of the association.

(m) "Standard employee risk rate" means the rate applicable to an eligible employee in a particular risk category in a small employer group.

(n) "Guaranteed association" means a nonprofit organization comprised of a group of individuals or employers who associate based solely on participation in a specified profession or industry, accepting for membership any individual or employer meeting its membership criteria which (1) includes one or more small employers as defined in paragraph (1) of subdivision (*l*), (2) does not condition membership directly or indirectly on the health or claims history of any person, (3) uses membership dues solely for and in consideration of the membership and membership benefits, except that the amount of the dues shall not depend on whether the member applies for or purchases insurance offered to the association, (4) is organized and maintained in good faith for purposes unrelated to insurance, (5) has been in active existence on January 1, 1992, and for at least five years prior to that date, (6) has included health insurance as a membership benefit for at least five years prior to January 1, 1992, (7) has a constitution and bylaws, or other analogous governing documents that provide for election of the governing board of the association by its members, (8) offers any plan contract that is purchased to all individual members and employer members in this state, (9) includes any member choosing to enroll in the plan contracts offered to the association provided that the member has agreed to make the required premium payments, and (10) covers at least 1,000 persons with the health care service plan with which it contracts. The requirement of 1,000 persons may be met if component chapters of a statewide association contracting

separately with the same carrier cover at least 1,000 persons in the aggregate.

This subdivision applies regardless of whether a contract issued by a plan is with an association or a trust formed for, or sponsored by, an association to administer benefits for association members.

For purposes of this subdivision, an association formed by a merger of two or more associations after January 1, 1992, and otherwise meeting the criteria of this subdivision shall be deemed to have been in active existence on January 1, 1992, if its predecessor organizations had been in active existence on January 1, 1992, and for at least five years prior to that date and otherwise met the criteria of this subdivision.

(o) "Members of a guaranteed association" means any individual or employer meeting the association's membership criteria if that person is a member of the association and chooses to purchase health coverage through the association. At the association's discretion, it may also include employers and employees of association members, employees of employers of association members, association staff, retired members, retired employees of members, and surviving spouses and dependents of deceased members. However, if an association chooses to include these persons as members of the guaranteed association, the association shall make that election in advance of purchasing a plan contract. Health care service plans may require an association to adhere to the membership composition it selects for up to 12 months.

SEC. 1.2. Section 1357.02 of the Health and Safety Code is amended to read:

1357.02. (a) A health care service plan providing or arranging for the provision of basic health care services to small employers shall be subject to this article if either of the following conditions are met:

(1) Any portion of the premium is paid by a small employer, or any covered individual is reimbursed, whether through wage adjustments or otherwise, by a small employer for any portion of the premium.

(2) The plan contract is treated by the small employer or any of the covered individuals as part of a plan or program for the purposes of Section 106 or 162 of the Internal Revenue Code.

(b) This article shall not apply to health plan contracts for coverage of Medicare services pursuant to contracts with the United States government, Medicare supplement, Medi-Cal contracts with the State Department of Health Services, long-term care coverage, or specialized health plan contracts.

SEC. 1.4. Section 1357.025 is added to the Health and Safety Code, to read:

1357.025. Nothing in this article shall be construed to preclude the application of this chapter to either of the following:

(a) An association, trust, or other organization acting as a "health care service plan" as defined under Section 1345.

(b) An association, trust, or other organization or person

presenting information regarding a health care service plan to persons who may be interested in subscribing or enrolling in the plan.

SEC. 2. Section 1357.03 of the Health and Safety Code is amended to read:

1357.03. (a) Upon the effective date of this article, a plan shall fairly and affirmatively offer, market, and sell all of the plan's health care service plan contracts that are sold to small employers or to associations that include small employers to all small employers in each service area in which the plan provides or arranges for the provision of health care services. A plan contracting to participate in the voluntary purchasing pool for small employers provided for under Article 4 (commencing with Section 10730) of Chapter 14 of Part 2 of Division 2 of the Insurance Code shall be deemed in compliance with this requirement for a contract offered through the voluntary purchasing pool established under Article 4 (commencing with Section 10730) of Chapter 14 of Part 2 of Division 2 of the Insurance Code in those geographic regions in which plans participate in the pool, if the contract is offered exclusively through the pool. Each plan shall make available to each small employer all small employer health care service plan contracts which the plan offers and sells to small employers or to associations that include small employers in this state. No plan or solicitor shall induce or otherwise encourage a small employer to separate or otherwise exclude an eligible employee from a health care service plan contract that is provided in connection with the employee's employment or membership in a guaranteed association.

(b) Every plan shall file with the commissioner the reasonable employee participation requirements and employer contribution requirements that will be applied in offering its plan contracts. Participation requirements shall be applied uniformly among all small employer groups, except that a plan may vary application of minimum employee participation requirements by the size of the small employer group and whether the employer contributes 100 percent of the eligible employee's premium. Employer contribution requirements shall not vary by employer size. Members of an association eligible for health coverage eligible under subdivision (o) of Section 1357 but not electing any health coverage through the association shall not be counted as eligible employees for purposes of determining whether the guaranteed association meets a plan's reasonable participation standards.

(c) The plan may not reject an application from a small employer for a health care service plan contract if all of the following are met:

(1) The small employer, as defined by paragraph (1) of subdivision (*l*) of Section 1357 offers health benefits to 100 percent of its eligible employees, as defined by paragraph (1) of subdivision (b) of Section 1357. Employees who waive coverage on the grounds that they have other group coverage shall not be counted as eligible employees.

(2) The small employer agrees to make the required premium payments.

(3) The small employer agrees to inform the small employers' employees of the availability of coverage and the provision that those not electing coverage must wait one year to obtain coverage through the group if they later decide they would like to have coverage.

(4) The employees and their dependents who are to be covered by the plan contract work or reside in the service area in which the plan provides or otherwise arranges for the provision of health care services.

(d) No plan or solicitor shall, directly or indirectly, engage in the following activities:

(1) Encourage or direct small employers to refrain from filing an application for coverage with a plan because of the health status, claims experience, industry, occupation of the small employer, or geographic location provided that it is within the plan's approved service area.

(2) Encourage or direct small employers to seek coverage from another plan or the voluntary purchasing pool established under Article 4 (commencing with Section 10730) of Chapter 14 of Part 2 of Division 2 of the Insurance Code because of the health status, claims experience, industry, occupation of the small employer, or geographic location provided that it is within the plan's approved service area.

(e) No plan shall, directly or indirectly, enter into any contract, agreement, or arrangement with a solicitor that provides for or results in the compensation paid to a solicitor for the sale of a health care service plan contract to be varied because of the health status, claims experience, industry, occupation, or geographic location of the small employer. This subdivision shall not apply with respect to a compensation arrangement that provides compensation to a solicitor on the basis of percentage of premium, provided that the percentage shall not vary because of the health status, claims experience, industry, occupation, or geographic area of the small employer.

SEC. 2.5. Section 1357.035 of the Health and Safety Code, as added by Chapter 217 of the Statutes of 1993, is amended to read:

1357.035. (a) Between July 26, 1993, and October 24, 1993, as well as 60 days prior to the expiration of an existing plan contract that expires prior to July 1, 1994, or, for plan contracts expiring after July 1, 1994, 60 days prior to July 1, 1994, an association that meets the definition of guaranteed association, as set forth in Section 1357, except for the requirement that 1,000 persons be covered, shall be entitled to purchase small employer health coverage as if the association were a guaranteed association, except that the coverage shall be guaranteed only for those members of an association, as defined in Section 1357, (1) who were receiving coverage or had successfully applied for coverage through the association as of June 30, 1993, (2) who were receiving coverage through the association as

of December 31, 1992, and whose coverage lapsed at any time thereafter because the employment through which coverage was received ended or an employer's contribution to health coverage ended, or (3) who were covered at any time between June 30, 1993, and July 1, 1994, under a contract that was in force on June 30, 1993.

(b) An association obtaining health coverage for its members pursuant to this section shall otherwise be afforded all the rights of a guaranteed association under this chapter including, but not limited to, guaranteed renewability of coverage.

(c) No later than August 25, 1993, plans that, at any time during the 1993 calendar year have provided coverage to associations that would be eligible for coverage under this section shall notify those associations of their rights under this section. Ninety days prior to the expiration of a plan contract that expires prior to July 1, 1994, or, for plan contracts expiring after July 1, 1994, 90 days prior to July 1, 1994, health plans that have in force coverage with an association that would be eligible for coverage under this section shall notify the association of its rights under this section.

SEC. 3. Section 1357.06 of the Health and Safety Code is amended to read:

1357.06. (a) Preexisting condition provisions of a plan contract shall not exclude coverage for a period beyond six months following the individual's effective date of coverage and may only relate to conditions for which medical advice, diagnosis, care, or treatment, including prescription drugs, was recommended or received from a licensed health practitioner during the six months immediately preceding the effective date of coverage.

(b) A plan that does not utilize a preexisting condition provision may impose a waiting period, not to exceed 60 days, before the coverage issued subject to this article shall become effective. During the waiting period no premiums shall be charged to the enrollee or the subscriber.

(c) In determining whether a preexisting condition provision or a waiting period applies to any person, a plan shall credit the time the person was covered under qualifying prior coverage, provided the person becomes eligible for coverage under the succeeding plan contract within 30 days of termination of prior coverage, exclusive of any waiting period, and applies for coverage with the succeeding plan contract within the applicable enrollment period. However, if a person's employment has ended, the availability of health coverage offered through employment or sponsored by an employer has terminated, or an employer's contribution toward health coverage has terminated, a plan shall credit the time the person was covered under qualifying prior coverage if the person becomes eligible for health coverage offered through employment or sponsored by an employer within 90 days, exclusive of any waiting period, and applies for coverage under the succeeding plan contract within the applicable enrollment period.

(d) In addition to the preexisting condition exclusions authorized

by subdivision (a) and the waiting period authorized by subdivision (b), health plans providing coverage to a guaranteed association may impose on employers or individuals purchasing coverage who would not be eligible for guaranteed coverage if they were not purchasing through the association a waiting period, not to exceed 60 days, before the coverage issued subject to this article shall become effective. During the waiting period, no premiums shall be charged to the enrollee or the subscriber.

SEC. 3.5. Section 1357.09 of the Health and Safety Code, as amended by Chapter 113 of the Statutes of 1993, is amended to read:

1357.09. No plan shall be required to offer a health care service plan contract or accept applications for such a contract pursuant to this article in the case of any of the following:

(a) To a small employer, where the small employer is not physically located in a plan's approved service areas, or where an eligible employee and dependents who are to be covered by the plan contract do not work or reside within a plan's approved service areas.

(b) Within a specific service area or portion of a service area where a plan reasonably anticipates and demonstrates to the satisfaction of the commissioner that it will not have sufficient health care delivery resources to assure that health care services will be available and accessible to the eligible employee and dependents of the employee because of its obligations to existing enrollees.

(1) A plan that cannot offer a health care service plan contract to small employers because it is lacking in sufficient health care delivery resources within a service area or a portion of a service area may not offer a contract in the area in which the plan is not offering coverage to small employers to new employer groups with more than 50 eligible employees until the plan notifies the commissioner that it has the ability to deliver services to small employer groups, and certifies to the commissioner that from the date of the notice it will enroll all small employer groups requesting coverage in that area from the plan unless the plan has met the requirements of subdivision (d).

(2) Nothing in this article shall be construed to limit the commissioner's authority to develop and implement a plan of rehabilitation for a health care service plan whose financial viability or organizational and administrative capacity have become impaired.

(c) Offer coverage to a small employer or an eligible employee as defined under paragraph (2) of subdivision (b) of Section 1357 which, within 12 months of application for coverage, disenrolled from a plan contract offered by the plan.

(d) The commissioner approves the plan's certification that the number of eligible employees and dependents enrolled under contracts issued during the current calendar year equals or exceeds (1) in the case of a plan that administers any self-funded health coverage arrangements in California, 10 percent of the total enrollment of the plan in California as of December 31 of the

preceding year, or (2) in the case of a plan that does not administer any self-funded health coverage arrangements in California, 8 percent of the total enrollment of the plan in California as of December 31 of the preceding year. If that certification is approved, the plan shall not offer any health care service plan contract to any small employers during the remainder of the current year.

(1) If a health care service plan treats an affiliate or subsidiary as a separate carrier for the purpose of this article because one health care service plan is qualified under the federal Health Maintenance Organization Act and does not offer coverage to small employers, while the affiliate or subsidiary offers a plan contract that is not qualified under the federal Health Maintenance Organization Act and offers plan contracts to small employers, the health care service plan offering coverage to small employers shall enroll new eligible employees and dependents, equal to the applicable percentage of the total enrollment of both the health care service plan qualified under the federal Health Maintenance Organization Act and its affiliate or subsidiary.

(2) The certified statement filed pursuant to this subdivision shall state the following:

(A) Whether the plan administers any self-funded health coverage arrangements in California.

(B) The plan's total enrollment as of December 31 of the preceding year.

(C) The number of eligible employees and dependents enrolled under contracts issued to small employer groups during the current calendar year.

The commissioner shall, within 45 days, approve or disapprove the certified statement. If the certified statement is disapproved, the plan shall continue to issue coverage as required by Section 1357.03 and be subject to disciplinary action as set forth in Article 7 (commencing with Section 1386).

(e) A health care service plan that, as of December 31 of the prior year, had a total enrollment of fewer than 100,000 and 50 percent or more of the plan's total enrollment have premiums paid by the Medi-Cal program.

(f) A social health maintenance organization, as described in subdivision (a) of Section 2355 of the federal Deficit Reduction Act of 1984 (Public Law 97-369), that, as of December 31 of the prior year, had a total enrollment of fewer than 100,000 and has 50 percent or more of the organization's total enrollment premiums paid by the Medi-Cal program or Medicare programs, or by a combination of Medi-Cal and Medicare. In no event shall this exemption be based upon enrollment in Medicare supplement contracts, as described in Article 3.5 (commencing with Section 1358).

SEC. 4. Section 1357.11 of the Health and Safety Code is amended to read:

1357.11. All health care service plan contracts offered to a small employer shall be renewable with respect to all eligible employees

or dependents at the option of the contractholder or small employer except:

(a) For nonpayment of the required premiums by the contractholder or small employer.

(b) For fraud or misrepresentation by the contractholder or small employer or, with respect to coverage of individuals, the individuals or their representatives.

(c) For noncompliance with a plan's participation or employer contribution requirements at the time of renewal.

(d) When the plan ceases to provide or arrange for the provision of health care services for new small employer health care service plan contracts in this state; provided, however, that the following conditions are satisfied:

(1) Notice of the decision to cease new or existing small employer health benefits plans in this state is provided to the commissioner and to either the contractholder or small employer.

(2) Small employer health care service plan contracts subject to this chapter shall not be canceled for 180 days after the date of the notice required under paragraph (1) and for that business of a plan which remains in force, any plan that ceases to offer for sale new small employer health care service plan contracts shall continue to be governed by this article with respect to business conducted under this article.

(3) Except as authorized under subdivision (d) of Section 1357.09 and Section 1357.10, a plan that ceases to write new small employer business in this state after the effective date of this article shall be prohibited from offering for sale new small employer health care service plan contracts in this state for a period of three years from the date of notice to the commissioner.

(e) When the plan withdraws a health care service plan contract from the small employer market; provided, the plan makes available to the small employer all plan contracts that it makes available to new small employer business; and provided, that the premium for the new plan contract complies with the renewal increase requirements set forth in Section 1357.12.

SEC. 4.5. Section 1357.12 of the Health and Safety Code is amended to read:

1357.12. Premiums for contracts offered or delivered by plans on or after the effective date of this article shall be subject to the following requirements:

(a) (1) The premium for new business shall be determined for an eligible employee in a particular risk category after applying a risk adjustment factor to the plan's standard employee risk rates. The risk adjusted employee risk rate may not be more than 120 percent or less than 80 percent of the plan's applicable standard employee risk rate until July 1, 1996. Effective July 1, 1996, this factor may not be more than 110 percent or less than 90 percent.

(2) The premium charged a small employer for new business shall be equal to the sum of the risk adjusted employee risk rates.

(3) The premium charged a small employer for new business shall be in effect for no less than six months.

(b) (1) The premium for renewal of in force business shall be determined for an eligible employee in a particular risk category after applying a risk adjustment factor to the plan's standard employee risk rates. The risk adjusted employee risk rates may not be more than 120 percent or less than 80 percent of the plan's applicable standard employee risk rate until July 1, 1996. Effective July 1, 1996, this factor may not be more than 110 percent or less than 90 percent. The risk adjustment factor applied to a small employer may not increase by more than 10 percentage points from the risk adjustment factor applied in the prior rating period. The risk adjustment factor for a small employer may not be modified more frequently than every 12 months.

(2) The premium charged a small employer for renewal of in force business shall be equal to the sum of the risk adjusted employee risk rates and shall be in effect for no less than six months.

(3) For a contract that a plan has discontinued offering, the risk adjustment factor applied to the standard employee risk rates for the first rating period of the new contract that the small employer elects to purchase shall be no greater than the risk adjustment factor applied in the prior rating period to the discontinued contract. However, the risk adjusted employee risk rate may not be more than 120 percent or less than 80 percent of the plan's applicable standard employee risk rate until July 1, 1996. Effective July 1, 1996, this factor may not be more than 110 percent or less than 90 percent. The risk adjustment factor for a small employer may not be modified more frequently than every 12 months.

(c) (1) For any small employer, a plan may, with the consent of the small employer, establish composite employee and dependent rates for either new business or renewal of in force business. The composite rates shall be determined as the average of the risk adjusted employee risk rates for the small employer, as determined in accordance with the requirements of subdivisions (a) and (b). The sum of the composite rates so determined shall be equal to the sum of the risk adjusted employee risk rates for the small employer.

(2) The composite rates shall be used for all employees and dependents covered throughout a rating period of no less than six months nor more than 12 months, except that a plan may reserve the right to redetermine the composite rates if the enrollment under the contract changes by more than a specified percentage during the rating period. Any redetermination of the composite rates shall be based on the same risk adjusted employee risk rates used to determine the initial composite rates for the rating period. If a plan reserves the right to redetermine the rates and the enrollment changes more than the specified percentage, the plan shall redetermine the composite rates if the redeterminated rates would result in a lower premium for the small employer. A plan reserving the right to redetermine the composite rates based upon a change

in enrollment shall use the same specified percentage to measure that change with respect to all small employers electing composite rates.

SEC. 5. Section 10700 of the Insurance Code, as amended by Chapter 217 of the Statutes of 1993, is amended to read:

10700. As used in this chapter:

(a) "Agent or broker" means a person or entity licensed under Chapter 5 (commencing with Section 1621) of Part 2 of Division 1.

(b) "Benefit plan design" means a specific health coverage product issued by a carrier to small employers, to trustees of associations that include small employers, or to individuals if the coverage is offered through employment or sponsored by an employer. It includes services covered and the levels of copayment and deductibles, and it may include the professional providers who are to provide those services and the sites where those services are to be provided. A benefit plan design may also be an integrated system for the financing and delivery of quality health care services which has significant incentives for the covered individuals to use the system.

(c) "Board" means the Major Risk Medical Insurance Board.

(d) "Carrier" means any disability insurance company, nonprofit hospital service plan, or any other entity that writes, issues, or administers health benefit plans that cover the employees of small employers, regardless of the situs of the contract or master policyholder. For the purposes of Articles 3 (commencing with Section 10719) and 4 (commencing with Section 10730), "carrier" also includes health care service plans.

(e) "Dependent" means the spouse or child of an eligible employee, subject to applicable terms of the health benefit plan covering the employee, and includes dependents of guaranteed association members if the association elects to include dependents under its health coverage at the same time it determines its membership composition pursuant to subdivision (z).

(f) "Eligible employee" means either of the following:

(1) Any permanent employee who is actively engaged on a full-time basis in the conduct of the business of the small employer with a normal work week of at least 30 hours, in the small employer's regular place of business, who has met any statutorily authorized applicable waiting period requirements. The term includes sole proprietors or partners of a partnership, if they are actively engaged on a full-time basis in the small employer's business, and they are included as employees under a health benefit plan of a small employer, but does not include employees who work on a part-time, temporary, or substitute basis. It includes any eligible employee as defined in this paragraph who obtains coverage through a guaranteed association. Employees of employers purchasing through a guaranteed association shall be deemed to be eligible employees if they would otherwise meet the definition except for the number of persons employed by the employer.

(2) Any member of a guaranteed association as defined in subdivision (z).

(g) "Enrollee" means an eligible employee or dependent who receives health coverage through the program from a participating carrier.

(h) "Financially impaired" means, for the purposes of this chapter, a carrier that, on or after the effective date of this chapter, is not insolvent and is either:

(1) Deemed by the commissioner to be potentially unable to fulfill its contractual obligations.

(2) Placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

(i) "Fund" means the California Small Group Reinsurance Fund.

(j) "Health benefit plan" means a policy or contract written or administered by a carrier that arranges or provides health care benefits for the covered eligible employees of a small employer and their dependents. The term does not include accident only, credit, disability income, coverage of Medicare services pursuant to contracts with the United States government, Medicare supplement, long-term care insurance, dental, vision, coverage issued as a supplement to liability insurance, automobile medical payment insurance, or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(k) "In force business" means an existing health benefit plan issued by the carrier to a small employer.

(*l*) "Late enrollee" means an eligible employee or dependent who has declined health coverage under a health benefit plan offered by a small employer at the time of the initial enrollment period provided under the terms of the health benefit plan, and who subsequently requests enrollment in a health benefit plan of that small employer; provided that the initial enrollment period shall be a period of at least 30 days. It also means any member of an association that is a guaranteed association as well as any other person eligible to purchase through the guaranteed association when that person has failed to purchase coverage during the initial enrollment period provided under the terms of the guaranteed association's health benefit plan and who subsequently requests enrollment in the plan, provided that the initial enrollment period shall be a period of at least 30 days. However, an eligible employee, another person eligible for coverage through a guaranteed association pursuant to subdivision (z), or dependent shall not be considered a late enrollee if: (1) the individual meets all of the following: (A) was covered under another employer health benefit plan at the time the individual was eligible to enroll; (B) certified at the time of the initial enrollment, that coverage under another employer health benefit plan was the reason for declining enrollment provided that, if the individual was covered under another employer health plan, the

individual was given the opportunity to make the certification required by this subdivision and was notified that failure to do so could result in later treatment as a late enrollee; (C) has lost or will lose coverage under another employer health benefit plan as a result of termination of employment of the individual or of a person through whom the individual was covered as a dependent, change in employment status of the individual, or of a person through whom the individual was covered as a dependent, the termination of the other plan's coverage, cessation of an employer's contribution toward an employee or dependent's coverage, death of the person through whom the individual was covered as a dependent, or divorce; and (D) requests enrollment within 30 days after termination of coverage or employer contribution toward coverage provided under another employer health benefit plan; or (2) the individual is employed by an employer who offers multiple health benefit plans and the individual elects a different plan during an open enrollment period; or (3) a court has ordered that coverage be provided for a spouse or minor child under a covered employee's health benefit plan and request for enrollment is made within 30 days after issuance of the court order; or (4) (A) in the case of an eligible employee as defined in paragraph (1) of subdivision (b), the carrier cannot produce a written statement from the employer stating that the individual or the person through whom an individual was eligible to be covered as a dependent, prior to declining coverage, was provided with, and signed acknowledgment of, an explicit written notice in bold type specifying that failure to elect coverage during the initial enrollment period permits the carrier to impose, at the time of the individual's later decision to elect coverage, an exclusion from coverage for a period of 12 months as well as a six-month preexisting condition exclusion unless the individual meets the criteria specified in paragraph (1), (2), or (3); (B) in the case of an eligible employee who is a guaranteed association member, the plan cannot produce a written statement from the guaranteed association stating that the association sent a written notice in bold type to all association members at their last known address prior to the initial enrollment period informing members that failure to elect coverage during the initial enrollment period permits the plan to impose, at the time of the member's later decision to elect coverage, an exclusion from coverage for a period of 12 months as well as a six-month preexisting condition exclusion unless the member can demonstrate that he or she meets the requirements of subparagraphs (A), (C), and (D) of paragraph (1) or paragraph (2) or (3); or (C) in the case of an employer or person who is not a member of an association, was eligible to purchase coverage through a guaranteed association, and did not do so, and would not be eligible to purchase guaranteed coverage unless purchased through a guaranteed association, the employer or person can demonstrate that he or she meets the requirements of subparagraphs (A), (C), and (D) of paragraph (1), or paragraph (2)

or (3), or that he or she recently had a change in status that would make him or her eligible and that application for coverage was made within 30 days of the change.

(m) "New business" means a health benefit plan issued to a small employer that is not the carrier's in force business.

(n) "Participating carrier" means a carrier that has entered into a contract with the program to provide health benefits coverage under this part.

(o) "Plan of operation" means the plan of operation of the fund, including articles, bylaws and operating rules adopted by the fund pursuant to Article 3 (commencing with Section 10719).

(p) "Program" means the Voluntary Alliance Uniting Employers Purchasing Program.

(q) "Preexisting condition provision" means a policy provision that excludes coverage for charges or expenses incurred during a specified period following the insured's effective date of coverage, as to a condition for which medical advice, diagnosis, care, or treatment was recommended or received during a specified period immediately preceding the effective date of coverage.

(r) "Qualifying prior coverage" means:

(1) Any individual or group policy, contract, or program, that is written or administered by a disability insurer, nonprofit hospital service plan, health care service plan, fraternal benefits society, self-insured employer plan, or any other entity, in this state or elsewhere, and that arranges or provides medical, hospital, and surgical coverage not designed to supplement other private or governmental plans. The term includes continuation or conversion coverage but does not include accident only, credit, disability income, Medicare supplement, long-term care, dental, vision, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical payment insurance, or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(2) The federal Medicare program pursuant to Title XVIII of the Social Security Act.

(3) The medicaid program pursuant to Title XIX of the Social Security Act.

(4) Any other publicly sponsored program, provided in this state or elsewhere, of medical, hospital, and surgical care.

(s) "Rating period" means the period for which premium rates established by a carrier are in effect and shall be no less than six months.

(t) "Risk adjusted employee risk rate" means the rate determined for an eligible employee of a small employer in a particular risk category after applying the risk adjustment factor.

(u) "Risk adjustment factor" means the percent adjustment to be applied equally to each standard employee risk rate for a particular

small employer, based upon any expected deviations from standard claims. This factor may not be more than 120 percent or less than 80 percent until July 1, 1996. Effective July 1, 1996, this factor may not be more than 110 percent or less than 90 percent.

(v) "Risk category" means the following characteristics of an eligible employee: age, geographic region, and family size of the employee, plus the benefit plan design selected by the small employer.

(1) No more than the following age categories may be used in determining premium rates:

Under 30
30–39
40–49
50–54
55–59
60–64
65 and over

However, for the 65 and over age category, separate premium rates may be specified depending upon whether coverage under the health benefit plan will be primary or secondary to benefits provided by the federal Medicare program pursuant to Title XVIII of the federal Social Security Act.

(2) Small employer carriers shall base rates to small employers using no more than the following family size categories:

(A) Single.
(B) Married couple.
(C) One adult and child or children.
(D) Married couple and child or children.

(3) (A) In determining rates for small employers, a carrier that operates statewide shall use no more than nine geographic regions in the state, have no region smaller than an area in which the first three digits of all its ZIP Codes are in common within a county and shall divide no county into more than two regions. Carriers shall be deemed to be operating statewide if their coverage area includes 90 percent or more of the state's population. Geographic regions established pursuant to this section shall, as a group, cover the entire state, and the area encompassed in a geographic region shall be separate and distinct from areas encompassed in other geographic regions. Geographic regions may be noncontiguous.

(B) In determining rates for small employers, a carrier that does not operate statewide shall use no more than the number of geographic regions in the state than is determined by the following formula: the population, as determined in the last federal census, of all counties which are included in their entirety in a carrier's service area divided by the total population of the state, as determined in the last federal census, multiplied by nine. The resulting number shall be rounded to the nearest whole integer. No region may be smaller than an area in which the first three digits of all its ZIP Codes are in common within a county and no county may be divided into more

than two regions. The area encompassed in a geographic region shall be separate and distinct from areas encompassed in other geographic regions. Geographic regions may be noncontiguous. No carrier shall have less than one geographic area.

(w) "Small employer" means either of the following:

(1) Any person, proprietary or nonprofit firm, corporation, partnership, public agency, or association that is actively engaged in business or service that, on at least 50 percent of its working days during the preceding calendar quarter, employed at least three, but not more than 50, eligible employees, the majority of whom were employed within this state, that was not formed primarily for purposes of buying health insurance and in which a bona fide employer-employee relationship exists. However, for purposes of subdivisions (b) and (h) of Section 10705, the definition shall include employers with at least five eligible employees until July 1, 1994, four eligible employees until July 1, 1995, and three eligible employees thereafter. In determining the number of eligible employees, companies that are affiliated companies, and that are eligible to file a combined income tax return for purposes of state taxation shall be considered one employer. Subsequent to the issuance of a health benefit plan to a small employer pursuant to this chapter, and for the purpose of determining eligibility, the size of a small employer shall be determined annually. Except as otherwise specifically provided, provisions of this chapter that apply to a small employer shall continue to apply until the health benefit plan anniversary following the date the employer no longer meets the requirements of this definition. It includes any small employer as defined in this paragraph who purchases coverage through a guaranteed association, and any employer purchasing coverage for employees through a guaranteed association.

(2) Any guaranteed association, as defined in subdivision (y), that purchases health coverage for members of the association.

(x) "Standard employee risk rate" means the rate applicable to an eligible employee in a particular risk category in a small employer group.

(y) "Guaranteed association" means a nonprofit organization comprised of a group of individuals or employers who associate based solely on participation in a specified profession or industry, accepting for membership any individual or employer meeting its membership criteria which (1) includes one or more small employers as defined in paragraph (1) of subdivision (w), (2) does not condition membership directly or indirectly on the health or claims history of any person, (3) uses membership dues solely for and in consideration of the membership and membership benefits, except that the amount of the dues shall not depend on whether the member applies for or purchases insurance offered by the association, (4) is organized and maintained in good faith for purposes unrelated to insurance, (5) has been in active existence on January 1, 1992, and for at least five years prior to that date, (6) has been offering health insurance to its

members for at least five years prior to January 1, 1992, (7) has a constitution and bylaws, or other analogous governing documents that provide for election of the governing board of the association by its members, (8) offers any benefit plan design that is purchased to all individual members and employer members in this state, (9) includes any member choosing to enroll in the benefit plan design offered to the association provided that the member has agreed to make the required premium payments, and (10) covers at least 1,000 persons with the carrier with which it contracts. The requirement of 1,000 persons may be met if component chapters of a statewide association contracting separately with the same carrier cover at least 1,000 persons in the aggregate.

This subdivision applies regardless of whether a master policy by an admitted insurer is delivered directly to the association or a trust formed for or sponsored by an association to administer benefits for association members.

For purposes of this subdivision, an association formed by a merger of two or more associations after January 1, 1992, and otherwise meeting the criteria of this subdivision shall be deemed to have been in active existence on January 1, 1992, if its predecessor organizations had been in active existence on January 1, 1992, and for at least five years prior to that date and otherwise met the criteria of this subdivision.

(z) "Members of a guaranteed association" means any individual or employer meeting the association's membership criteria if that person is a member of the association and chooses to purchase health coverage through the association. At the association's discretion, it may also include employers and employees of association members, employees of employers of association members, association staff, retired members, retired employees of members, and surviving spouses and dependents of deceased members. However, if an association chooses to include such persons as members of the guaranteed association, the association must so elect in advance of purchasing coverage from a plan. Health plans may require an association to adhere to the membership composition it selects for up to 12 months.

SEC. 5.6. Section 10705 of the Insurance Code, as amended by Chapter 113 of the Statutes of 1993, is amended to read:

10705. Upon the effective date of this act:

(a) No group or individual policy or contract or certificate of group insurance or statement of group coverage providing benefits to employees of small employers as defined in this chapter shall be issued or delivered by a carrier subject to the jurisdiction of the commissioner regardless of the situs of the contract or master policyholder or of the domicile of the carrier nor, except as otherwise provided in Sections 10270.91 and 10270.92, shall a carrier provide coverage subject to this chapter until a copy of the form of the policy, contract, certificate, or statement of coverage is filed with and approved by the commissioner in accordance with Sections 10290

and 10291, and the carrier has complied with the requirements of Section 10717.

(b) Each carrier, except a self-funded employer, shall fairly and affirmatively offer, market, and sell all of the carrier's benefit plan designs that are sold to, offered through, or sponsored by, small employers or associations that include small employers to all small employers in each geographic region in which the carrier makes coverage available or provides benefits. A carrier contracting to participate in the Voluntary Alliance Uniting Employers Purchasing Program shall be deemed to be in compliance with this requirement for a benefit plan design offered through the program in those geographic regions in which the carrier participates in the program and the benefit plan design is offered exclusively through the program.

(1) Nothing in this section shall be construed to require an association, or a trust established and maintained by an association to receive a master insurance policy issued by an admitted insurer and to administer the benefits thereof solely for association members, to offer, market or sell a benefit plan design to those who are not members of the association. However, if the association markets, offers or sells a benefit plan design to those who are not members of the association it is subject to the requirements of this section. This shall apply to an association that otherwise meets the requirements of paragraph (5) formed by merger of two or more associations after January 1, 1992, if the predecessor organizations had been in active existence on January 1, 1992, and for at least five years prior to that date and met the requirements of paragraph (5).

(2) A carrier which (A) effective January 1, 1992, and at least 20 years prior to that date, markets, offers, or sells benefit plan designs only to all members of one association and (B) does not market, offer or sell any other individual, selected group, or group policy or contract providing medical, hospital and surgical benefits shall not be required to market, offer, or sell to those who are not members of the association. However, if the carrier markets, offers or sells any benefit plan design or any other individual, selected group, or group policy or contract providing medical, hospital and surgical benefits to those who are not members of the association it is subject to the requirements of this section.

(3) Each carrier that sells health benefit plans to members of one association pursuant to paragraph (2) shall submit an annual statement to the commissioner which states that the carrier is selling health benefit plans pursuant to paragraph (2) and which, for the one association, lists all the information required by paragraph (4).

(4) Each carrier that sells health benefit plans to members of any association shall submit an annual statement to the commissioner which lists each association to which the carrier sells health benefit plans, the industry or profession which is served by the association, the association's membership criteria, a list of officers, the state in which the association is organized, and the site of its principal office.

(5) For purposes of paragraphs (1) and (2), an association is a nonprofit organization comprised of a group of individuals or employers who associate based solely on participation in a specified profession or industry, accepting for membership any individual or small employer meeting its membership criteria, which do not condition membership directly or indirectly on the health or claims history of any person, which uses membership dues solely for and in consideration of the membership and membership benefits, except that the amount of the dues shall not depend on whether the member applies for or purchases insurance offered by the association, which is organized and maintained in good faith for purposes unrelated to insurance, which has been in active existence on January 1, 1992, and at least five years prior to that date, which has a constitution and bylaws, or other analogous governing documents which provide for election of the governing board of the association by its members, which has contracted with one or more carriers to offer one or more health benefit plans to all individual members and small employer members in this state.

(c) Each carrier shall make available to each small employer all benefit plan designs that the carrier offers or sells to small employers or to associations that include small employers. Notwithstanding subdivision (d) of Section 10700, for purposes of this subdivision, companies that are affiliated companies or that are eligible to file a consolidated income tax return shall be treated as one carrier.

(d) Each carrier shall do all of the following:

(1) Prepare a brochure that summarizes all of its benefit plan designs and make this summary available to small employers, agents and brokers upon request. The summary shall include for each benefit plan design information on benefits provided, a generic description of the manner in which services are provided, such as how access to providers is limited, benefit limitations, required copayments and deductibles, standard employee risk rates, and a phone number that can be called for more detailed benefit information. Carriers are required to keep the information contained in the brochure accurate and up to date, and, upon updating the brochure, send copies to agents and brokers representing the carrier. Any entity that provides administrative services only with regard to a benefit plan design written or issued by another carrier shall not be required to prepare a summary brochure which includes that benefit plan design.

(2) For each benefit plan design, prepare a more detailed evidence of coverage and make it available to small employers, agents and brokers upon request. The evidence of coverage shall contain all information that a prudent buyer would need to be aware of in making selections of benefit plan designs. An entity that provides administrative services only with regard to a benefit plan design written or issued by another carrier shall not be required to prepare an evidence of coverage for that benefit plan design.

(3) Provide to small employers, agents, and brokers, upon

request, for any given small employer the sum of the standard employee risk rates and the sum of the risk adjusted standard employee risk rates. When requesting this information, small employers, agents and brokers shall provide the carrier with the information the carrier needs to determine the small employer's risk adjusted employee risk rate.

(4) Provide copies of the current summary brochure to all agents or brokers who represent the carrier and, upon updating the brochure, send copies of the updated brochure to agents and brokers representing the carrier for the purpose of selling health benefit plans.

(5) Notwithstanding subdivision (d) of Section 10700, for purposes of this subdivision, companies that are affiliated companies or that are eligible to file a consolidated income tax return shall be treated as one carrier.

(e) Every agent or broker representing one or more carriers for the purpose of selling health benefit plans to small employers shall do all of the following:

(1) When providing information on a health benefit plan to a small employer but making no specific recommendations on particular benefit plan designs:

(A) Advise the small employer of the carrier's obligation to sell to any small employer any of the benefit plan designs it offers to small employers and provide them, upon request, with the actual rates that would be charged to that employer for a given benefit plan design.

(B) Notify the small employer that the agent or broker will procure rate and benefit information for the small employer on any benefit plan design offered by a carrier for whom the agent or broker sells health benefit plans.

(C) Notify the small employer that, upon request, the agent or broker will provide the small employer with the summary brochure required in paragraph (1) of subdivision (d) for any benefit plan design offered by a carrier whom the agent or broker represents.

(2) When recommending a particular benefit plan design or designs, advise the small employer that, upon request, the agent will provide the small employer with the brochure required by paragraph (1) of subdivision (d) containing the benefit plan design or designs being recommended by the agent or broker.

(3) Prior to filing an application for a small employer for a particular health benefit plan:

(A) For each of the benefit plan designs offered by the carrier whose benefit plan design the agent or broker is presenting, provide the small employer with the benefit summary required in paragraph (1) of subdivision (d) and the sum of the standard employee risk rates for that particular employer.

(B) Notify the small employer that, upon request, the agent or broker will provide the small employer with an evidence of coverage brochure for each benefit plan design the carrier offers.

(C) Notify the small employer that, from July 1, 1993 to July 1,

1996, actual rates may be 20 percent higher or lower than the sum of the standard employee risk rates, and from July 1, 1996, and thereafter, actual rates may be 10 percent higher or lower than the sum of the standard employee risk rates depending on how the carrier assesses the risk of the small employer's group.

(D) Notify the small employer that, upon request, the agent or broker will submit information to the carrier to ascertain the small employer's sum of the risk adjusted standard employee risk rate for any benefit plan design the carrier offers.

(E) Obtain a signed statement from the small employer acknowledging that the small employer has received the disclosures required by paragraph (3) of subdivision (e) and by Section 10716.

(f) No carrier, agent, or broker shall induce or otherwise encourage a small employer to separate or otherwise exclude an eligible employee from a health benefit plan which, in the case of an eligible employee meeting the definition in paragraph (1) of subdivision (f) of Section 10700, is provided in connection with the employee's employment or which, in the case of an eligible employee as defined in paragraph (2) of subdivision (f) of Section 17000, is provided in connection with a guaranteed association.

(g) No carrier shall reject an application from a small employer for a benefit plan design provided:

(1) The small employer as defined by paragraph (1) of subdivision (w) of Section 10700 offers health benefits to 100 percent of its eligible employees as defined in paragraph (1) of subdivision (f) of Section 10700. Employees who waive coverage on the grounds that they have other group coverage shall not be counted as eligible employees.

(2) The small employer agrees to make the required premium payments.

(h) No carrier or agent or broker shall, directly or indirectly, engage in the following activities:

(1) Encourage or direct small employers to refrain from filing an application for coverage with a carrier because of the health status, claims experience, industry, occupation, or geographic location within the carrier's approved service area of the small employer or the small employer's employees.

(2) Encourage or direct small employers to seek coverage from another carrier or the program because of the health status, claims experience, industry, occupation, or geographic location within the carrier's approved service area of the small employer or the small employer's employees.

(i) No carrier shall, directly or indirectly, enter into any contract, agreement, or arrangement with an agent or broker that provides for or results in the compensation paid to an agent or broker for a health benefit plan to be varied because of the health status, claims experience, industry, occupation, or geographic location of the small employer or the small employer's employees. This subdivision shall not apply with respect to a compensation arrangement that provides

compensation to an agent or broker on the basis of percentage of premium, provided that the percentage shall not vary because of the health status, claims experience, industry, occupation, or geographic area of the small employer.

(j) If a carrier enters into a contract, agreement, or other arrangement with a third-party administrator or other entity to provide administrative, marketing, or other services related to the offering of health benefit plans to small employers in this state, the third-party administrator shall be subject to this chapter.

(k) (1) With respect to the obligation to provide coverage newly issued under subdivision (d), the carrier may cease enrolling new small employer groups and new eligible employees as defined by paragraph (2) of subdivision (f) of Section 10700 if it certifies to the commissioner that the number of eligible employees and dependents, of the employers newly enrolled or insured during the current calendar year by the carrier equals or exceeds: (A) in the case of a carrier that administers any self-funded health benefits arrangement in California, 10 percent of the total number of eligible employees, or eligible employees and dependents, respectively, enrolled or insured in California by that carrier as of December 31 of the preceding year, or (B) in the case of a carrier that does not administer any self-funded health benefit arrangements in California, 8 percent of the total number of eligible employees, or eligible employees and dependents, respectively, enrolled or insured by the carrier in California as of December 31 of the preceding year.

(2) Certification shall be deemed approved if not disapproved within 45 days after submission to the commissioner. If that certification is approved, the small employer carrier shall not offer coverage to any small employers under any health benefit plans during the remainder of the current year. If the certification is not approved, the carrier shall continue to issue coverage as required by subdivision (d) and be subject to administrative penalties as established in Section 10718.

SEC. 5.7. Section 10705.1 of the Insurance Code, as added by Chapter 217 of the Statutes of 1993, is amended to read:

10705.1. (a) Between July 26, 1993, and October 24, 1993, as well as 60 days prior to the expiration of an existing contract that expires prior to July 1, 1994, or, for contracts expiring after July 1, 1994, 60 days prior to July 1, 1994, an association that meets the definition of guaranteed association, as set forth in Section 10700, except for the requirement that 1,000 persons be covered, shall be entitled to purchase small employer health coverage as if the association were a guaranteed association, except that the coverage shall be guaranteed only for those members of an association, as defined in Section 10700, (1) who were receiving coverage or had successfully applied for coverage through the association as of June 30, 1993, (2) who were receiving coverage through the association as of December 31, 1992, and whose coverage lapsed at any time thereafter because the employment through which coverage was

received ended or an employer's contribution to health coverage ended, or (3) who were covered at any time between June 30, 1993, and July 1, 1994, under a contract that was in force on June 30 1993.

(b) An association obtaining health coverage for its members pursuant to this section shall otherwise be afforded all the rights of a guaranteed association under this chapter including, but not limited to, guaranteed renewability of coverage.

(c) No later than August 25, 1993, carriers that, at any time during the 1993 calendar year have provided coverage to associations that would be eligible for coverage under this section shall notify those associations of their rights under this section. Ninety days prior to the expiration of a contract that expires prior to July 1, 1994, or, for contracts expiring after July 1, 1994, 90 days prior to July 1, 1994, carriers that have in force coverage with an association that would be eligible for coverage under this section shall notify the association of its rights under this section.

SEC. 6. Section 10706 of the Insurance Code is amended to read:

10706. Every carrier shall file with the commissioner the reasonable participation requirements and employer contribution requirements that are to be included in its health benefit plans. Participation requirements shall be applied uniformly among all small employer groups, except that a carrier may vary application of minimum employer participation requirements by the size of the small employer group and whether the employer contributes 100 percent of the eligible employee's premium. Employer contribution requirements shall not vary by employer size. Members of an association eligible for health coverage eligible under subdivision (z) of Section 10700 but not electing any health coverage through the association shall not be counted as eligible employees for purposes of determining whether the guaranteed association meets a carrier's reasonable participation standards.

SEC. 6.5. Section 10706.5 of the Insurance Code, as amended by Chapter 113 of the Statutes of 1993, is amended to read:

10706.5. (a) After a small employer submits a completed application, the carrier shall, within 30 days notify the employer of the employer's actual rates in accordance with Section 10714. The employer shall have 30 days in which to exercise the right to buy coverage at the quoted rates.

(b) When a small employer submits a premium payment, based on the quoted rates, and that payment is delivered or postmarked, whichever occurs earlier, within the first 15 days of a month, coverage shall become effective no later than the first day of the following month. When that payment is neither delivered nor postmarked until after the 15th day of a month, coverage shall become effective no later than the first day of the second month following delivery or postmark of the payment.

(c) During the first 30 days of coverage, the small employer shall have the option of changing coverage to a different benefit plan design offered by the same carrier. If a small employer notifies the

carrier of the change within the first 15 days of a month, coverage under the new benefit plan design shall become effective no later than the first day of the following month. If a small employer notifies the carrier of the change after the 15th day of a month, coverage under the new benefit plan design shall become effective no later than the first day of the second month following notification.

(d) All eligible employees and dependents listed on the small employer's completed application shall be covered on the effective date of the health benefit plan.

SEC. 7. Section 10708 of the Insurance Code is amended to read:

10708. (a) Preexisting condition provisions of health benefit plans shall not exclude coverage for a period beyond six months following the individual's effective date of coverage and may only relate to conditions for which medical advice, diagnosis, care, or treatment, including the use of prescription medications, was recommended by or received from a licensed health practitioner during the six months immediately preceding the effective date of coverage.

(b) A carrier that does not utilize a preexisting condition provision may impose a waiting period, not to exceed 60 days, before the coverage issued subject to this chapter shall become effective. During the waiting period, the carrier is not required to provide health care benefits and no premiums shall be charged to the subscriber or enrollee.

(c) In determining whether a preexisting condition provision or a waiting period applies to any person, a plan shall credit the time the person was covered under qualifying prior coverage, provided the person becomes eligible for coverage under the succeeding plan contract within 30 days of termination of prior coverage, exclusive of any waiting period, and applies for coverage with the succeeding plan contract within the applicable enrollment period. However, if a person's employment has ended, the availability of health coverage offered through employment or sponsored by an employer has terminated, or an employer's contribution toward health coverage has terminated, a plan shall credit the time the person was covered under qualifying prior coverage if the person becomes eligible for health coverage offered through employment or sponsored by an employer within 90 days, exclusive of any waiting period, and applies for coverage under the succeeding health benefit plan within the applicable enrollment period.

(d) A carrier providing aggregate or specific stop loss coverage or any other assumption of risk with reference to a health benefit plan shall provide that the plan meets all requirements of this section concerning preexisting condition provisions and waiting periods.

(e) In addition to the preexisting condition exclusions authorized by subdivision (a) and the waiting period authorized by subdivision (b), carriers providing coverage to a guaranteed association may impose on employers or individuals purchasing coverage who would not be eligible for guaranteed coverage if they were not purchasing

through the association a waiting period, not to exceed 60 days, before the coverage issued subject to this chapter shall become effective. During the waiting period, the carrier is not required to provide health care benefits and no premiums shall be charged to the enrollee or the subscriber.

SEC. 8. Section 10711 of the Insurance Code is amended to read:

10711. No carrier shall be required by the provisions of this chapter:

(a) To offer coverage to, or accept applications from, a small employer as defined in paragraph (1) of subdivision (w) of Section 10700, where the small employer is not physically located in a carrier's approved service areas.

(b) To offer coverage to or accept applications from a small employer as defined in paragraph (2) of subdivision (w) of Section 10700 where the small employer is seeking coverage for eligible employees who do not work or reside in a carrier's approved service areas.

(c) To include in a health benefits plan an otherwise eligible employee or dependent, when the eligible employee or dependent does not work or reside within a carrier's approved service area.

(d) To offer coverage to, or accept applications from, a small employer for a benefits plan design within an area if the commissioner has found that the carrier will not have the capacity within the area in its network of providers to deliver service adequately to the eligible employees and dependents of that employee because of its obligations to existing group contractholders and enrollees and that the action is not unreasonable or clearly inconsistent with the intent of this chapter.

A carrier that cannot offer coverage to small employers in a specific service area because it is lacking sufficient capacity may not offer coverage in the applicable area to new employer groups with more than 50 eligible employees until the carrier notifies the commissioner that it has regained capacity to deliver services to small employers, and certifies to the commissioner that from the date of the notice it will enroll all small groups requesting coverage from the carrier until the carrier has met the requirements of subdivision (h) of Section 10705.

(e) To offer coverage to a small employer, or an eligible employee as defined in paragraph (2) of subdivision (g) of Section 10700, who within 12 months of application for coverage terminated from a health benefit plan offered by the carrier.

SEC. 9. Section 10713 of the Insurance Code is amended to read:

10713. All health benefit plans written, issued, or administered by carriers on or after the effective date of this chapter, and all health benefit plans in force on or after the effective date of this chapter shall be renewable with respect to all eligible employees or dependents at the option of the policyholder, contractholder, or small employer except as follows:

(a) For nonpayment of the required premiums by the

policyholder, contractholder, or small employer.

(b) For fraud or misrepresentation by the policyholder, contractholder, or small employer or, with respect to coverage of individual enrollees, the enrollees or their representative.

(c) For noncompliance with a carrier's participation or employer contribution requirements at the time of renewal.

(d) When the carrier ceases to write, issue, or administer new small employer health benefit plans in this state, provided, however, that the following conditions are satisfied:

(1) Notice of the decision to cease writing, issuing, or administering new or existing small employer health benefits plans in this state is provided to the commissioner, and to either the policyholder, contractholder, or small employer.

(2) Small employer health benefit plans subject to this chapter shall not be canceled for 180 days after the date of the notice required under paragraph (1). For that business of a carrier that remains in force, any carrier that ceases to write, issue, or administer new health benefit plans shall continue to be governed by this chapter.

(3) Except in the case where a certification has been approved pursuant to subdivision (h) of Section 10705 or the commissioner has made a determination pursuant to subdivision (a) of Section 10712, a carrier that ceases to write, issue, or administer new health benefit plans to small employers in this state after the passage of this chapter shall be prohibited from writing, issuing, or administering new health benefit plans to small employers in this state for a period of three years from the date of notice to the commissioner.

(e) When a carrier withdraws a benefit plan design from the small employer market, provided that the carrier makes available to the small employer all small employer benefit plan designs which it markets and satisfies the requirements of paragraph (3) of subdivision (b) of Section 10714.

SEC. 9.5. Section 10714 of the Insurance Code, as amended by Chapter 113 of the Statutes of 1993, is amended to read:

10714. Premiums for benefit plan designs written, issued, or administered by carriers on or after the effective date of this act, shall be subject to the following requirements:

(a) (1) The premium for new business shall be determined for an eligible employee in a particular risk category after applying a risk adjustment factor to the carrier's standard employee risk rates. The risk adjusted employee risk rate may not be more than 120 percent or less than 80 percent of the carrier's applicable standard employee risk rate until July 1, 1996. Effective July 1, 1996, the risk adjusted employee risk rate may not be more than 110 percent or less than 90 percent.

(2) The premium charged a small employer for new business shall be equal to the sum of the risk adjusted employee risk rates.

(3) The premium charged a small employer for new business shall be in effect for no less than six months.

(b) (1) The premium for renewal of in force business shall be

determined for an eligible employee in a particular risk category after applying a risk adjustment factor to the carrier's standard employee risk rates. The risk adjusted employee risk rates may not be more than 120 percent or less than 80 percent of the carrier's applicable standard employee risk rate until July 1, 1996. Effective July 1, 1996, the risk adjusted employee risk rate may not be more than 110 percent or less than 90 percent. The risk adjustment factor applied to a small employer may not increase by more than 10 percentage points from the risk adjustment factor applied in the prior rating period. The risk adjustment factor for a small employer may not be modified more frequently than every 12 months.

(2) The premium charged a small employer for renewal of in force business shall be equal to the sum of the risk adjusted employee risk rates and shall be in effect for no less than six months.

(3) For a benefit plan design that a carrier has discontinued offering, the risk adjustment factor applied to the standard employee risk rates for the first rating period of the new benefit plan design that the small employer elects to purchase shall be no greater than the risk adjustment factor applied in the prior rating period to the discontinued benefit plan design. However, the risk adjusted employee rate may not be more than 120 percent or less than 80 percent of the carrier's applicable standard employee risk rate until July 1, 1996. Effective July 1, 1996, the risk adjusted employee risk rate may not be more than 110 percent or less than 90 percent. The risk adjustment factor for a small employer may not be modified more frequently than every 12 months.

(c) (1) For any small employer, a carrier may, with the consent of the small employer, establish composite employee and dependent rates for either new business or renewal of in force business. The composite rates shall be determined as the average of the risk adjusted employee risk rates for the small employer, as determined in accordance with the requirements of subdivisions (a) and (b). The sum of the composite rates so determined shall be equal to the sum of the risk adjusted employee risk rates for the small employer.

(2) The composite rates shall be used for all employees and dependents covered throughout a rating period of no less than six months, nor more than 12 months, except that a carrier may reserve the right to redetermine the composite rates if the enrollment under the health benefit plan changes by more than a specified percentage during the rating period. Any redetermination of the composite rates shall be based on the same risk adjusted employee risk rates used to determine the initial composite rates for the rating period. If a carrier reserves the right to redetermine the rates and the enrollment changes more than the specified percentage, the carrier shall redetermine the composite rates if the redeterminated rates would result in a lower premium for the small employer. A carrier reserving the right to redetermine the composite rates based upon a change in enrollment shall use the same specified percentage to measure that change with respect to all small employers electing

composite rates.

SEC. 9.7. Section 10731 of the Insurance Code is amended to read:

10731. The board may do any of the following:

(a) Enter into contracts with carriers to provide health benefits coverage to eligible employees and their dependents. Any contract entered into pursuant to this part shall be exempt from any provision of law relating to competitive bidding, and shall be exempt from the review or approval of any division of the Department of General Services. The board shall not be required to specify the amounts encumbered for each contract, but may allocate funds to each contract based on projected and actual subscriber enrollments.

(b) Enter into other contracts as are necessary or proper to carry out the provisions of this part.

(c) Employ necessary staff.

(d) Sue or be sued, including taking any legal actions necessary or proper for recovering any penalties for, on behalf of, or against, the program or any board member.

(e) Define the health benefits coverage which the program will contract to purchase from participating carriers.

(f) Appoint committees, as necessary, to provide technical assistance in the operation of the program.

(g) Assess participating employers a reasonable fee for necessary costs in connection with the program.

(h) Undertake activities necessary to administer the program, including marketing and publicizing the program, and assuring carrier, employer, and enrollee compliance with program requirements.

(i) Establish rules, conditions, and procedures for participation for small employers.

(j) Establish rules, conditions, and procedures for participation for participating carriers.

(k) Establish a financial relationship directly with agents or brokers to provide services pursuant to this program.

(*l*) Approve the benefit plan designs sold by carriers participating in the pool.

(m) Issue rules and regulations as necessary to administer the program. Any rules and regulations issued pursuant to this subdivision may be adopted as emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). Until December 31, 1994, the adoption of these regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare.

(n) Exercise all powers reasonably necessary to carry out the powers and responsibilities expressly granted or imposed by this part.

(o) From money appropriated to the Major Risk Medical

Insurance Fund, the Major Risk Medical Insurance Board may loan funds for operating expenses to establish the program. These funds shall be repaid to the Major Risk Medical Insurance Fund prior to transitioning administrative and financial responsibility for the program to a qualified nonprofit entity pursuant to Sections 10748.5 and 10748.6.

SEC. 10. Section 10733.5 is added to the Insurance Code, to read:

10733.5. Notwithstanding any other provision of law, an employer purchasing coverage through the program shall not be determined to be no longer eligible to participate in the program solely because the employer employs more than 50 eligible employees, provided the employer employs no more than 100 eligible employees.

SEC. 10.5. Section 12710.1 is added to the Insurance Code, to read:

12710.1. The Major Risk Medical Insurance Board is hereby renamed the Managed Risk Medical Insurance Board. Any contract or agreement entered into by the Major Risk Medical Insurance Board shall constitute contracts or agreements entered into by the Managed Risk Medical Insurance Board. Any reference in any statute, regulation, contract, or any other document to the Major Risk Medical Insurance Board as of the effective date of this act shall be deemed a reference to the Managed Risk Medical Insurance Board.

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.

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 the availability and affordability of small employer health coverage at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1147

An act to add Article 11 (commencing with Section 44380) to Chapter 2 of Part 25 of the Education Code, relating to teachers.

[Approved by Governor October 10, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Article 11 (commencing with Section 44380) is added to Chapter 2 of Part 25 of the Education Code, to read:

Article 11. Alternative Certification

44380. (a) The Legislature finds and declares that the teaching profession must be able to recruit talented individuals, in addition to college students, from a variety of sources to address geographic and subject area shortages. Many persons changing careers and early retirees from industry and the military are interested in the challenge of teaching.

(b) The Legislature further finds that, in California, there is a serious shortage of qualified teachers in the subjects of mathematics, science, and technology, of teachers who work with limited-English-proficient pupils, and of minority teachers.

(c) Therefore, in enacting this article, the Legislature intends to encourage public school districts, county offices of education, and colleges and universities to design concentrated programs leading to a permanent credential for people with work experience and others who already have a bachelor's degree.

44381. As used in this article, "alternative certification program" is a program operated by a school district, county office of education, college or university, or other public education entity, individually or in collaboration with other public education entities in the region to be served, and designed to provide a concentrated program leading to a permanent teaching credential.

44382. Alternative certification programs shall address geographic and subject matter shortage areas, and shall be targeted toward people with work experience and others who already have a bachelor's degree in the field in which they plan to teach.

44383. School districts or county offices of education operating, or that propose to operate, an alternative certification program pursuant to this article, may apply to the Commission on Teacher Credentialing for incentive grant funding that has been appropriated for the purposes of this article.

44384. An alternative certification program that receives grant funding pursuant to this article shall be operated pursuant to either Article 7.5 (commencing with Section 44325) of this chapter or Article 3 (commencing with Section 44450) of Chapter 3, or both.

The commission shall encourage, and may provide funding to, programs that include innovative training, assessment, or support models and strategies that have the potential of improving the quality of the teaching force. The commission shall encourage collaboration among school districts in funding alternative certification programs.

44385. The commission, with the assistance of representatives of classroom teachers, school administrators, parents, university and college educators, and others, as appropriate, shall establish criteria for selecting grant applicants to be funded. The criteria shall be limited to the following:

(a) The geographic distribution.

(b) The demonstrated need.

(c) The number of participants to be served.

(d) The quality of the curriculum, instruction, support, and assessment.

(e) The cost-effectiveness.

44386. From funds appropriated for the purposes of this article, the Commission on Teacher Credentialing shall award incentive grants to qualifying school districts or county offices of education. Each school district or county office of education that receives a grant shall provide matching funds from any available source in an amount equal to 50 percent of the cost of the alternative certification program . Grants shall be awarded by the commission for the remaining 50 percent of the cost of the alternative certification program, but in no event shall the grant amount awarded to any school district or county office of education exceed one thousand five hundred dollars ($1,500) per intern per year, except that the commission may require a lesser local contribution, or provide a larger grant per intern per year, in hardship cases.

SEC. 2. It is the intent of the Legislature that funding for the purposes of this act be provided in the annual Budget Act, commencing in the 1993–94 fiscal year.

CHAPTER 1148

An act to add Section 74.6 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor October 10, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 74.6 is added to the Revenue and Taxation Code, to read:

74.6. (a) For purposes of paragraph (5) of subdivision (c) of Section 2 of Article XIII A of the California Constitution, "newly

constructed" and "new construction" does not include the construction, installation, removal, or modification of any portion or structural component of an existing building or structure to the extent that it is done for the purpose of making the building or structure more accessible to, or more usable by, a disabled person.

(b) For the purposes of this section, "disabled person" means a person who suffers from a physical impairment that substantially limits one or more of that person's major life activities.

(c) The exclusion provided for in subdivision (a) shall apply to all buildings or structures except for those buildings or structures that qualify for the exclusion provided for in subdivision (a) of Section 74.3.

(d) The exclusion provided for in this section does not apply to the construction of an entirely new building or structure, or to the construction of an entirely new addition to an existing building or structure.

(e) For purposes of the exclusion provided for in subdivision (a), the property owner, primary contractor, civil engineer, or architect shall submit to the assessor a statement that shall identify those specific portions of the project that constitute construction, installation, removal, or modification improvements to the building or structure to make the building or structure more accessible to, or usable by, a disabled person.

(f) For the purposes of the exclusion provided for in subdivision (a), the construction, improvement, modification, or alteration of an existing building or structure may include, but is not limited to, access ramps, widening of doorways and hallways, barrier removal, access modifications to restroom facilities, elevators, and any other accessibility modification of a building or structure that would cause it to meet or exceed the accessibility standards of the 1990 Americans with Disabilities Act (Public Law 101-336) and the most recent edition to the California Building Standards Code that is in effect on the date of the application for a building permit.

(g) In order to receive the exclusion provided for in this section, the property owner shall notify the assessor prior to, or within 30 days of, completion of any project covered by this section that he or she intends to claim the exclusion for making improvements of the type specified in subdivision (a). The State Board of Equalization shall prescribe the manner and form for claiming the exclusion. All documents necessary to support the exclusion shall be filed by the property owner with the assessor not later than six months after the completion of the project.

(h) This section applies to any construction, installation, removal, or modification completed on or after June 7, 1994.

SEC. 2. This act shall only become operative if Assembly Constitutional Amendment 8 is adopted by the voters.

CHAPTER 1149

An act to amend Sections 7210.7 and 7215 of, and to add Section 7211.1 to, the Business and Professions Code, to amend Section 54.1 of the Civil Code, to amend Section 365.5 of, and to add Section 365.6 to, the Penal Code, and to amend Section 21963 of the Vehicle Code, relating to guide dogs for the blind.

[Approved by Governor October 10, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 7210.7 of the Business and Professions Code is amended to read:

7210.7. The board may authorize schools licensed by the board or instructors employed by those schools to provide home training in the use of guide dogs.

If a school desires to provide home training in the use of guide dogs, it shall apply to the board and provide the board with a written plan and procedure for conducting that home training, which shall be approved by the board prior to conducting any home training.

Schools providing home training in the use of guide dogs shall, annually, provide the board with the names and addresses of those persons who are receiving home training and shall include those persons who have received home training from the school subsequent to the last report filed with the board.

The guide dog user, as a condition of receiving home training, shall have completed a formal in-residence training program from a school licensed by the board to provide guide dog training, or from a school recognized by another state to provide guide dog training.

The requirement for a formal in-residence training program from a school licensed by the board may be waived by the school when that requirement imposes an undue hardship on the guide dog user.

Home training, as provided in this section, shall consist of not less than 20 hours of training.

This section shall only apply to those schools that are licensed by the board to furnish guide dogs and to train persons to use guide dogs, who desire to provide home training in the use of guide dogs, and who apply to the board for approval to provide that home training.

SEC. 2. Section 7211.1 is added to the Business and Professions Code, to read:

7211.1. (a) As a condition of renewal of an instructor's license, the instructor shall provide proof of completion of not less than 8 hours of continuing education. The board shall determine the form of proof.

(b) Continuing education shall meet the criteria specified in Section 166, and shall be in one or more of the following subject

matter areas:

(1) Blindness and mobility.

(2) Health issues relating to blindness.

(3) Instructing blind persons.

(4) Care and training of dogs.

(c) This section shall apply to renewal of instructors' licenses which expire on or after June 30, 1996.

SEC. 3. Section 7215 of the Business and Professions Code is amended to read:

7215. No person shall sell, give, or furnish any guide dog or seeing-eye dog to a blind person unless the following requirements have been met:

(a) The dog has been immunized against distemper and rabies.

(b) The dog has been neutered.

(c) The dog has been examined by a licensed veterinarian and found to be in good health.

A certificate from a veterinarian certifying to the foregoing shall be delivered to the recipient of the dog at the time of delivery of the dog.

SEC. 4. Section 54.1 of the Civil Code is amended to read:

54.1. (a) Individuals with disabilities shall be entitled to full and equal access, as other members of the general public, to accommodations, advantages, facilities, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes of transportation (whether private, public, franchised, licensed, contracted, or otherwise provided), telephone facilities, adoption agencies, private schools, hotels, lodging places, places of public accommodation, amusement, or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons.

As used in this section, "telephone facilities" means tariff items and other equipment and services which have been approved by the Public Utilities Commission to be used by individuals with disabilities in a manner feasible and compatible with the existing telephone network proved by the telephone companies.

"Full and equal access," for purposes of this section in its application to transportation, means access that meets the standards of Titles II and III of the Americans with Disabilities Act of 1990 (Public Law 101-336) and federal regulations adopted pursuant thereto, except that, if the laws of this state prescribe higher standards, it shall mean access that meets those higher standards.

(b) (1) Individuals with disabilities shall be entitled to full and equal access, as other members of the general public, to all housing accommodations offered for rent, lease, or compensation in this state, subject to the conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons.

(2) "Housing accommodations" means any real property, or

portion thereof, which is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home, residence, or sleeping place of one or more human beings, but shall not include any accommodations included within subdivision (a) or any single-family residence the occupants of which rent, lease, or furnish for compensation not more than one room therein.

(3) Nothing in this subdivision shall require any person renting, leasing, or providing for compensation real property to modify his or her property in any way or provide a higher degree of care for an individual with a disability than for an individual who is not disabled.

(4) Except as provided in paragraph (5) of this subdivision, nothing in this part shall require any person renting, leasing, or providing for compensation real property, if that person refuses to accept tenants who have dogs, to accept as a tenant an individual with a disability who has a dog.

(5) It shall be deemed a denial of equal access to housing accommodations within the meaning of this subdivision for any person, firm, or corporation to refuse to lease or rent housing accommodations to an individual who is blind or visually impaired on the basis that the individual uses the services of a guide dog, an individual who is deaf or hearing impaired on the basis that the individual uses the services of a signal dog, or to an individual with a physical disability on the basis that the individual uses the services of a service dog, or to refuse to permit an individual who is blind or visually impaired to keep a guide dog, an individual who is deaf or hearing impaired to keep a signal dog, or an individual with a physical disability to keep a service dog on the premises.

Except in the normal performance of duty as a mobility or signal aid, nothing contained in this paragraph shall be construed to prevent the owner of a housing accommodation from establishing terms in a lease or rental agreement which reasonably regulate the presence of guide dogs, signal dogs, or service dogs on the premises of a housing accommodation, nor shall this paragraph be construed to relieve a tenant from any liability otherwise imposed by law for real and personal property damages caused by such a dog when proof of same exists.

As used in this subdivision, "guide dog" means any guide dog which was trained by a person licensed under the provisions of Chapter 9.5 (commencing with Section 7200) of Division 3 of the Business and Professions Code or as defined in the regulations implementing Title III of the Americans with Disabilities Act of 1990 (Public Law 101-336), or trained by a school recognized in another state to train guide or seeing-eye dogs.

As used in this subdivision, "signal dog" means any dog trained to alert an individual who is deaf or hearing impaired to intruders or sounds.

As used in this subdivision, "service dog" means any dog individually trained to the individual with a physical disability's requirements including, but not limited to, minimal protection work,

rescue work, pulling a wheelchair, or fetching dropped items.

(6) It shall be deemed a denial of equal access to housing accommodations within the meaning of this subdivision for any person, firm, or corporation to refuse to lease or rent housing accommodations to an individual who is blind or visually impaired, an individual who is deaf or hearing impaired, or other individual with a disability on the basis that the individual with a disability is partially or wholly dependent upon the income of his or her spouse, if the spouse is a party to the lease or rental agreement. Nothing in this subdivision shall, however, prohibit a lessor or landlord from considering the aggregate financial status of an individual with a disability and his or her spouse.

(c) Persons licensed to train guide dogs for individuals who are visually impaired or blind pursuant to Chapter 9.5 (commencing with Section 7200) of Division 3 of the Business and Professions Code or guide dogs as defined in the regulations implementing Title III of the Americans with Disabilities Act of 1990 (Public Law 101-336), and persons authorized to train signal dogs for individuals who are deaf or hearing impaired, and persons authorized to train service dogs for individuals with physical disabilities, may take dogs, for the purpose of training them as guide dogs, signal dogs, or service dogs in any of the places specified in subdivisions (a) and (b). These persons shall carry and display identification if issued as an authorization, upon request.

SEC. 4.5. Section 54.1 of the Civil Code is amended to read:

54.1. (a) Individuals with disabilities shall be entitled to full and equal access, as other members of the general public, to accommodations, advantages, facilities, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes of transportation (whether private, public, franchised, licensed, contracted, or otherwise provided), telephone facilities, adoption agencies, private schools, hotels, lodging places, places of public accommodation, amusement, or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons.

As used in this section, "telephone facilities" means tariff items and other equipment and services which have been approved by the Public Utilities Commission to be used by individuals with disabilities in a manner feasible and compatible with the existing telephone network provided by the telephone companies.

"Full and equal access," for purposes of this section in its application to transportation, means access that meets the standards of Titles II and III of the Americans with Disabilities Act of 1990 (Public Law 101-336) and federal regulations adopted pursuant thereto, except that, if the laws of this state prescribe higher standards, it shall mean access that meets those higher standards.

(b) (1) Individuals with disabilities shall be entitled to full and

equal access, as other members of the general public, to all housing accommodations offered for rent, lease, or compensation in this state, subject to the conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons.

(2) "Housing accommodations" means any real property, or portion thereof, which is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home, residence, or sleeping place of one or more human beings, but shall not include any accommodations included within subdivision (a) or any single-family residence the occupants of which rent, lease, or furnish for compensation not more than one room therein.

(3) Nothing in this subdivision shall require any person renting, leasing, or providing for compensation real property to modify his or her property in any way or provide a higher degree of care for an individual with a disability than for an individual who is not disabled.

(4) Except as provided in paragraph (5) of this subdivision, nothing in this part shall require any person renting, leasing, or providing for compensation real property, if that person refuses to accept tenants who have dogs, to accept as a tenant an individual with a disability who has a dog.

(5) It shall be deemed a denial of equal access to housing accommodations within the meaning of this subdivision for any person, firm, or corporation to refuse to lease or rent housing accommodations to an individual who is blind or visually impaired on the basis that the individual uses the services of a guide dog, an individual who is deaf or hearing impaired on the basis that the individual uses the services of a signal dog, or to an individual with a physical disability on the basis that the individual uses the services of a service dog, or to refuse to permit an individual who is blind or visually impaired to keep a guide dog, an individual who is deaf or hearing impaired to keep a signal dog, or an individual with a physical disability to keep a service dog on the premises.

Except in the normal performance of duty as a mobility or signal aid, nothing contained in this paragraph shall be construed to prevent the owner of a housing accommodation from establishing terms in a lease or rental agreement which reasonably regulate the presence of guide dogs, signal dogs, or service dogs on the premises of a housing accommodation, nor shall this paragraph be construed to relieve a tenant from any liability otherwise imposed by law for real and personal property damages caused by such a dog when proof of same exists.

As used in this subdivision, "guide dog" means any guide dog which was trained by a person licensed under the provisions of Chapter 9.5 (commencing with Section 7200) of Division 3 of the Business and Professions Code or as defined in the regulations implementing Title III of the Americans with Disabilities Act of 1990 (Public Law 101-336), or trained by a school recognized in another state to train guide or seeing-eye dogs.

As used in this subdivision, "signal dog" means any dog trained to

alert an individual who is deaf or hearing impaired to intruders or sounds.

As used in this subdivision, "service dog" means any dog individually trained to the requirements of an individual with physical disabilities, including, but not limited to, minimal protection work, rescue work, pulling a wheelchair, or fetching dropped items.

(6) It shall be deemed a denial of equal access to housing accommodations within the meaning of this subdivision for any person, firm, or corporation to refuse to lease or rent housing accommodations to an individual who is blind or visually impaired, an individual who is deaf or hearing impaired, or other individual with a disability on the basis that the individual with a disability is partially or wholly dependent upon the income of his or her spouse, if the spouse is a party to the lease or rental agreement. Nothing in this subdivision shall, however, prohibit a lessor or landlord from considering the aggregate financial status of an individual with a disability and his or her spouse.

(c) Persons licensed to train guide dogs for individuals who are visually impaired or blind pursuant to Chapter 9.5 (commencing with Section 7200) of Division 3 of the Business and Professions Code or guide dogs as defined in the regulations implementing Title III of the Americans with Disabilities Act of 1990 (Public Law 101-336), and persons authorized to train signal dogs for individuals who are deaf or hearing impaired, and persons authorized to train service dogs for individuals with physical disabilities, may take dogs, for the purpose of training them as guide dogs, signal dogs, or service dogs in any of the places specified in subdivisions (a) and (b). These persons shall carry and display identification if issued as an authorization, upon request.

SEC. 5. Section 365.5 of the Penal Code is amended to read:

365.5. (a) Any blind person, deaf person, or physically disabled person who is a passenger on any common carrier, airplane, motor vehicle, railway train, motorbus, streetcar, boat, or any other public conveyance or mode of transportation operating within this state, shall be entitled to have with him or her a specially trained guide dog, signal dog, or service dog.

(b) No blind person, deaf person, or physically disabled person and his or her specially trained guide dog, signal dog, or service dog shall be denied admittance to hotels, restaurants, lodging places, places of public accommodation, amusement, or resort or other places to which the general public is invited within this state because of that guide dog, signal dog, or service dog.

(c) Any person, firm, association, or corporation, or the agent of any person, firm, association, or corporation, who prevents a blind person, deaf person, or physically disabled person from exercising the rights specified in this section is guilty of an infraction, punishable by a fine not exceeding two hundred fifty dollars ($250).

(d) As used in this section, "guide dog" means any guide dog or seeing-eye dog which was trained by a person licensed under

Chapter 9.5 (commencing with Section 7200) of Division 3 of the Business and Professions Code or which meets the definitional criteria under federal regulations adopted to implement Title III of the Americans with Disabilities Act of 1990 (Public Law 101-336), or trained by a school recognized in another state to train guide or seeing-eye dogs.

(e) As used in this section, "signal dog" means any dog trained to alert a deaf person, or a person whose hearing is impaired, to intruders or sounds.

(f) As used in this section, "service dog" means any dog individually trained to do work or perform tasks to meet the requirements of a physically disabled person, including, but not limited to, minimal protection work, rescue work, pulling a wheelchair, or fetching dropped items.

(g) Nothing in this section is intended to affect any civil remedies available for a violation of this section.

SEC. 6. Section 365.6 is added to the Penal Code, to read:

365.6. (a) Any person who, with no legal justification, intentionally interferes with the use of a guide dog by harassing or obstructing the guide dog user or his or her guide dog, is guilty of a misdemeanor, punishable by imprisonment in the county jail not exceeding six months, or by a fine of not less than one thousand five hundred dollars ($1,500) nor more than two thousand five hundred dollars ($2,500), or both.

(b) As used in this section, "guide dog" means any guide dog or seeing-eye dog which was trained by a person licensed under Chapter 9.5 (commencing with Section 7200) of Division 3 of the Business and Professions Code or as defined in the regulations implementing Title III of the Americans with Disabilities Act of 1990 (Public Law 101-336), or trained by a school recognized in another state to train guide or seeing-eye dogs.

(c) Nothing in this section is intended to affect any civil remedies available for a violation of this section.

SEC. 7. Section 21963 of the Vehicle Code is amended to read:

21963. A totally or partially blind pedestrian who is carrying a predominantly white cane (with or without a red tip), or using a guide dog, shall have the right-of-way, and the driver of any vehicle approaching this pedestrian, who fails to yield the right-of-way, or to take all reasonably necessary precautions to avoid injury to this blind pedestrian, is guilty of a misdemeanor, punishable by imprisonment in the county jail not exceeding six months, or by a fine of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000), or both. This section shall not preclude prosecution under any other applicable provision of law.

SEC. 8. Section 4.5 of this bill incorporates amendments to Section 54.1 of the Civil Code proposed by both this bill and AB 551. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, (2) each bill amends Section 54.1 of the Civil Code, and (3) this bill is enacted after AB

551, in which case Section 4 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 1150

An act to amend Section 27536.5 of, and to add Sections 27842, 27843, 27844, 27845, 27846, 27847, 27848, and 27849 of, the Health and Safety Code, relating to food facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 10, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 27536.5 of the Health and Safety Code is amended to read:

27536.5. "Satellite food distribution facility" means either of the following:

(a) A location where only prepackaged, unit servings of food are distributed, that have been prepared or stored in an approved food facility operated by a school, governmental agency, or nonprofit organization.

(b) A stand, kiosk, cart, or other semi-permanent, remote, food-dispensing facility located within a defined and securable perimeter, including, but not limited to, an amusement park, stadium, arena, or enclosed shopping mall that operates a food establishment on the site.

SEC. 2. Section 27842 is added to the Health and Safety Code to read:

27842. Under the controls and conditions specified in this article, a satellite food distribution facility as defined in subdivision (b) of Section 27536.5 may do any of the following:

(a) Hold, portion, and dispense any foods that are prepared or prepackaged by the on-site food establishment or prepackaged by another approved source.

(b) Prepare foods other than potentially hazardous foods, remove the packaging of foods described in subdivision (a), prepare hot dogs, and coat ice cream bars with chocolate and nuts, if all food

preparation and handling is within a compartment complying with subdivision (a) of Section 27675.

(c) Add condiments, sauces, garnishes, and similar accompaniments to foods at the time of sale, regardless of whether the accompaniments are potentially hazardous foods.

(d) Bake potatoes in enclosed ovens.

SEC. 3. Section 27843 is added to the Health and Safety Code to read:

27843. During periods of inoperation, a satellite food distribution facility as defined in subdivision (b) of Section 27536.5 may store foods, other than potentially hazardous foods , except prepackaged frozen potentially hazardous foods, in lockable food storage compartments or containers if all of the following conditions are met:

(a) The food is adequately protected at all times from contamination, exposure to the elements, ingress of rodents and other pests, and temperature abuse.

(b) The compartments or container have been approved by the enforcement officer.

SEC. 4. Section 27844 is added to the Health and Safety Code to read:

27844. The onsite food establishment shall support a satellite food distribution facility as defined in subdivision (b) of Section 27536.5 by doing all of the following where appropriate:

(a) Unpacking from bulk potentially hazardous foods.

(b) Filling suitable dispensers with condiments.

(c) Mixing, blending, forming, cooking or otherwise preparing all unpackaged potentially hazardous foods.

(d) Heating to a minimum temperature of 140 degrees Fahrenheit all potentially hazardous foods that are intended to be served or held hot.

(e) Chilling to a maximum temperature of 45 degrees Fahrenheit all potentially hazardous foods that are intended to be served or held cold.

(f) Packing any unpackaged food into suitable, covered containers prior to transport.

(g) Providing storage for foods not described in Section 27843 during periods of inoperation.

(h) Cleaning and sanitizing all multi-use utensils and easily removable food contact surfaces per the requirements of Section 27623.

SEC. 5. Section 27845 is added to the Health and Safety Code to read:

27845. Restrooms shall comply with Sections 27625 or 27626.1.

SEC. 6. Section 27846 is added to the Health and Safety Code to read:

27846. A satellite food distribution facility as defined in subdivision (b) of Section 27536.5 is exempt from Section 27607 if it is designed and operated with overhead protection, sneeze-guards and food container covers to assure that unpackaged food complies

with Section 27591. The satellite food distribution facility shall be designed and operated so as to prevent contamination of food under normal operating conditions with regard to employee sanitation, and minimize exposure to airborne contaminants, birds, pests, leaves, rain, condensation, and customer contact. The operator shall immediately cease food preparation, holding, portioning, and dispensing at a satellite food distribution facility if unsanitary conditions exist whereby the food may become contaminated with filth or otherwise be rendered unwholesome.

SEC. 7. Section 27847 is added to the Health and Safety Code to read:

27847. A satellite food distribution facility as defined in subdivision (b) of Section 27536.5 may be moved, operated, or stored at any location within the perimeter. If the facility is to be stored, all food shall be removed and the facility shall be appropriately cleaned prior to storage. While stored, the facility shall be protected from contamination, tampering, and weather. Prior to reuse, it shall be recleaned and sanitized.

SEC. 8. Section 27848 is added to the Health and Safety Code to read:

27848. A satellite food distribution facility as defined in subdivision (b) of Section 27536.5 shall do all of the following:

(a) If unpackaged potentially hazardous food is held, portioned, or dispensed, have a two-compartment sink with integral drainboards with hot and cold water for cleaning and sanitizing multi-use utensils, when multi-use utensils are used.

(b) If there is a likelihood that employees may contact unpackaged food or food contact surfaces, have a handwashing sink and supplies as specified for vehicles in subdivision (b) of Section 27675.

(c) If water is required for hand and utensil washing, the facility shall be connected to an approved potable water supply and sewer pursuant to Section 27625.

(d) If electricity is required for mechanical refrigeration or the operation of lights and equipment, the facility shall be connected to an approved power supply.

(e) Provide adequate lighting pursuant to Section 27635.

(f) If applicable, have equipment pursuant to Section 27614.

SEC. 9. Section 27849 is added to the Health and Safety Code to read:

27849. Prior to the issuance of any permit to a satellite food distribution facility as defined in subdivision (b) of Section 27536.5, the enforcement officer shall review and approve written procedures, schedules, and record exemplars to assure all of the following:

(a) That in-place cleaning procedures for equipment and structures are adequate in frequency, soil removal, sanitizing, and disposal of waste water, wash water, and refuse.

(b) That food transported to and from the onsite food

establishment will not be exposed to contamination.

(c) That potentially hazardous food will be held at or below 45 degrees Fahrenheit or at or above 140 degrees Fahrenheit at all times.

This section also applies to vehicles, as defined in Section 27540, that operate within a defined and securable perimeter as prescribed in subdivision (b) of Section 27536.5.

SEC. 10. 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, 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.

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. 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 that proper health and sanitation standards are provided for satellite food distribution facilities of all types, it is necessary that this act take effect immediately.

CHAPTER 1151

An act to amend Section 603.5 of the Welfare and Institutions Code, relating to minors.

[Approved by Governor October 10, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 603.5 of the Welfare and Institutions Code is amended to read:

603.5. (a) Notwithstanding any other provision of law, in counties which adopt the provisions of this section, jurisdiction over the case of a minor alleged to have committed only a violation of the Vehicle Code classified as an infraction or a violation of a local ordinance involving the driving, parking, or operation of a motor vehicle, is with the municipal or justice court, except that the

municipal or justice court may refer to the juvenile court for adjudication, cases involving a minor who has been adjudicated a ward of the juvenile court, or who has other matters pending in the juvenile court. An alleged violation of subdivision (a) or (b) of Section 40508 of the Vehicle Code may be referred to the juvenile court for adjudication.

(b) (1) Except as provided in paragraph (3), the municipal or justice court shall use the procedures established by the juvenile court law in hearing the following traffic cases where a minor who had attained the age of 16 years but had not attained the age of 18 years on the date of the violation has been issued a notice to appear:

(A) Infractions involving an unlicensed driver, as specified in Chapter 1 (commencing with Section 12500) of Division 6 of the Vehicle Code, or driving on a suspended license, as specified in Chapter 4 (commencing with Section 14600) of Division 6 of the Vehicle Code.

(B) Infractions relating to financial responsibility, as specified in Division 7 (commencing with Section 16000) of the Vehicle Code.

(C) Speeding violations, as specified in Division 11 (commencing with Section 21000) of the Vehicle Code, where the speed limit was exceeded by more than 15 miles per hour.

(D) Infractions involving the use or possession of alcoholic beverages or drugs, as specified in Chapter 12 (commencing with Section 23100) of Division 11 of the Vehicle Code.

(E) Infractions involving a violation of Section 27360 of the Vehicle Code.

(F) Infractions involving a second violation of the Vehicle Code after the minor has once posted bail.

(2) With respect to the above exceptions, whenever possible, or as required by the court, the parent or guardian of the minor shall appear with the minor and traffic matters involving minors may not be resolved by a bail forfeiture in lieu of a court appearance.

(3) In all traffic cases heard in the municipal or justice court pursuant to this section:

(A) The notice to appear shall serve as a petition.

(B) Any provisions of juvenile court law requiring that confidentiality be observed as to cases and proceedings, prohibiting or restricting the disclosure of juvenile court records, or restricting attendance by the public at juvenile court proceedings shall not apply.

(c) The provisions of this section shall apply only in a county in which the board of supervisors, with the concurrence of the presiding judges of the superior, municipal, and justice courts, adopts a resolution making the section applicable in the county.

CHAPTER 1152

An act to amend Section 1280 of, and to add Sections 1280.1, 1280.2, and 1288.4 to, the Health and Safety Code, relating to health facilities.

[Approved by Governor October 10, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 1280 of the Health and Safety Code is amended to read:

1280. (a) The state department may provide consulting services upon request to any health facility to assist in the identification or correction of deficiencies or the upgrading of the quality of care provided by the health facility.

(b) The state department shall notify the health facility of all deficiencies in its compliance with this chapter and the rules and regulations adopted hereunder, and the health facility shall agree with the state department upon a plan of correction that shall give the health facility a reasonable time to correct these deficiencies. If at the end of the allotted time, as revealed by inspection, the health facility has failed to correct the deficiencies, the director may take action to revoke or suspend the license.

(c) (1) In addition to subdivision (a), if the health facility is licensed under subdivision (a), (b), or (f) of Section 1250, and if the facility fails to implement a plan of correction that has been agreed upon by both the facility and the state department within a reasonable time, the state department may order implementation of the plan of correction previously agreed upon by the facility and the state department. If the facility and the state department fail to agree upon a plan of correction within a reasonable time and if the deficiency poses an immediate and substantial hazard to the health or safety of patients, then the director may take action to order implementation of a plan of correction devised by the state department. The order shall be in writing and shall contain a statement of the reasons for the order. If the facility does not agree that the deficiency poses an immediate and substantial hazard to the health or safety of patients or if the facility believes that the plan of correction will not correct the hazard, or if the facility proposes a more efficient or effective means of remedying the deficiency, the facility may, within 10 days of receiving the plan of correction from the department, appeal the order to the director. The director shall review information provided by the facility, the department, and other affected parties and within a reasonable time render a decision in writing that shall include a statement of reasons for the order. During the period which the director is reviewing the appeal, the order to implement the plan of correction shall be stayed.

(2) If any condition within a health facility licensed under

subdivision (a), (b), or (f) of Section 1250 poses an immediate and substantial hazard to the health or safety of patients, the state department may order either of the following until the hazardous condition is corrected:

(A) Reduction in the number of patients.

(B) Closure of the unit or units within the facility that pose the risk. If the unit to be closed is an emergency room in a designated facility, as defined in Section 1797.67, the state department shall notify and coordinate with the local emergency medical services agency.

(3) The facility may appeal an order pursuant to paragraph (2) by appealing to the superior court of the county in which the facility is located.

(4) Paragraph (2) shall not apply to a deficiency for which the facility was cited prior to January 1, 1994.

(d) Reports on the results of each inspection of a health facility shall be prepared by the inspector or inspector team and shall be kept on file in the state department along with the plan of correction and health facility comments. The inspection report may include a recommendation for reinspection. Inspection reports of an intermediate care facility/developmentally disabled habilitative or an intermediate care facility/developmentally disabled—nursing shall be provided by the state department to the appropriate regional center pursuant to Chapter 5 (commencing with Section 4620) of Division 4.5 of the Welfare and Institutions Code.

(e) All inspection reports and lists of deficiencies shall be open to public inspection when the state department has received verification that the health facility has received the report from the state department. All plans of correction shall be open to public inspection upon receipt by the state department.

(f) In no event shall the act of providing a plan of correction, the content of the plan of correction, or the execution of a plan of correction, be used in any legal action or administrative proceeding as an admission within the meaning of Sections 1220 to 1227, inclusive, of the Evidence Code against the health facility, its licensee, or its personnel.

SEC. 2. Section 1280.1 is added to the Health and Safety Code, to read:

1280.1. (a) If a licensee of a health facility licensed under subdivision (a), (b), or (f) of Section 1250 fails to correct a deficiency within the time specified in a plan of correction, the state department may assess the licensee a civil penalty in an amount not to exceed fifty dollars ($50) per patient affected by the deficiency for each day that the deficiency continues beyond the date specified for correction. The civil penalties shall be assessed only for deficiencies that pose an immediate and substantial hazard to the health or safety of patients. If the licensee disputes a determination by the state department regarding alleged failure to correct a deficiency or regarding the reasonableness of the proposed deadline for

correction, the licensee may, within 10 days, request a hearing pursuant to Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. Penalties shall be paid when appeals pursuant to those provisions have been exhausted.

(b) This section shall not apply to a deficiency for which a facility was cited prior to January 1, 1994.

SEC. 3. Section 1280.2 is added to the Health and Safety Code, to read:

1280.2. (a) No deficiency cited pursuant to paragraph (2) of subdivision (b) of Section 1280 or Section 1280.1 shall be for the failure of a facility to meet the requirements of the California Building Standards Code if, as of January 1, 1994, the hospital building was approved under Chapter 12.5 (commencing with Section 15000) of Division 12.5, or if the hospital building was exempt from that approval under any other provision of law in effect on that date.

(b) It is the intent of the Legislature that neither the amendments made to Section 1280 by the act that added this section, nor Section 1280.1 shall be construed to require the retrofitting of hospital buildings built prior to January 1, 1994, to meet seismic standards in effect on that date.

SEC. 4. Section 1288.4 is added to the Health and Safety Code, to read:

1288.4. A health facility licensed under subdivision (a), (b), or (f) of Section 1250 shall post conspicuously, in a prominent location within the premises and accessible to public view, a notice providing the telephone number of the state department's regional licensing office where complaints regarding the facility may be reported. The state department shall inform the health facility of the telephone number to be included in the notice.

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 1153

An act to amend Section 116.950 of the Code of Civil Procedure, to amend Section 32321 of the Financial Code, to amend Section 58576 of the Food and Agricultural Code, to amend Sections 7072, 7073, 7073.5, 7074, 7075, 7076, 7078, 7082, 7083, 7085, 7086, 7087, 7087.5, 7092, 8257, 8258, 8684.2, 8850, 8850.2, 13899.5, 14998.1, 14998.2, 14998.3, 14998.6, 14998.7, 14998.8, 14998.9, 14999.21, 14999.31, 15323.5, 15325, 15326, 15327, 15327.1, 15327.5, 15328, 15330, 15330.1, 15331, 15331.2, 15333, 15333.6, 15334, 15334.2, 15335.07, 15335.09, 15335.11, 15335.13, 15335.20, 15335.22, 15336, 15337, 15338, 15339, 15339.29, 15339.30, 15341, 15345, 15345.1, 15345.2, 15345.3, 15345.4, 15350, 15350.1, 15353, 15354, 15355.7, 15364.4, 15364.8, 15364.20, 15364.21, 15364.22, 15364.23, 15364.51, 15364.52, 15365, 15365.2, 15365.8, 15365.12, 15365.40, 15365.44, 15367, 15371, 15372, 15372.10, 15372.11, 15372.13, 15372.15, 15372.16, 15372.17, 15372.18, 15372.19, 15372.21, 15373.07, 15373.1, 15373.2, 15373.25, 15373.51, 15373.52, 15373.53, 15373.54, 15373.7, 15373.8, 15373.9, 15373.91, 15373.92, 15373.93, 15373.94, 15373.95, 15373.955, 15373.96, 15373.97, 15373.98, 15379, 15379.1, 15379.3, 15379.5, 15379.8, 15379.9, 15379.10, 15379.11, 15379.12, 15382, 15383, 15384, 15385, 15386, 15387, 15392.1, 15394, 15394.1, 15395.4, 15395.5, 15396.2, 15398.3, 15398.9, 15399.1, 15399.2, 15399.4, 15399.6, 15399.8, 15399.10, 15399.11, 15399.12, 15399.13, 15399.14, 15399.15, 15399.16, 15399.17, 15399.18, 15399.20, 15399.21, 15399.41, 66503, and 91550 of, to amend and renumber Sections 15363.5, 15363.6, 15363.7, 15363.8, and 15364.1 of, to add Sections 15330.2, 15399.50, 15399.51, 15399.52, 15399.53, 15399.54, 15399.55, 15399.56, and 15399.60 to, to repeal Sections 7079, 15311, 15320, 15321, 15322, 15323, 15328.5, 15336.3, 15347, 15348, 15349, 15355.9, 15360, 15361, 15362, 15363, 15364.56, 15364.70, 15364.72, 15364.73, 15364.90, 15365.11, 15365.30, 15365.31, 15365.32, 15365.33, 15373.3, 15373.4, 15373.5, and 15379.13 of, to repeal and add Section 15310 of, and to repeal Chapter 9 (commencing with Section 15399.30) of Division 3 of Title 2 of, the Government Code, to amend Sections 40448.6 and 42803 of the Health and Safety Code, to amend Section 2802 of the Penal Code, to amend Sections 30301, 30301.5, and 36300 of, the Public Resources Code, and to amend Section 17053.11 of the Revenue and Taxation Code, relating to trade and commerce, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 10, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 116.950 of the Code of Civil Procedure is amended to read:

116.950. (a) This section shall become operative only if the Department of Consumer Affairs determines that sufficient private or public funds are available in addition to the funds available in the

department's current budget to cover the costs of implementing this section.

(b) There shall be established an advisory committee, constituted as set forth in this section, to study small claims practice and procedure, with particular attention given to the improvement of procedures for the enforcement of judgments.

(c) The members of the advisory committee shall serve without compensation, but shall be reimbursed for expenses actually and necessarily incurred by them in the performance of their duties. The advisory committee shall report its findings and recommendations to the Judicial Council and the Legislature.

(d) The advisory committee shall be composed as follows:

(1) The Attorney General or a representative.

(2) Two consumer representatives from consumer groups or agencies, appointed by the Secretary of the State and Consumer Services Agency.

(3) One representative appointed by the Speaker of the Assembly and one representative appointed by the President pro Tempore of the Senate.

(4) Two representatives, appointed by the Board of Governors of the State Bar.

(5) Two representatives of the business community, appointed by the Secretary of the Trade and Commerce Agency.

(6) Six judges of the municipal court or justice court who have had extensive experience as judges of small claims court, appointed by the Judicial Council.

(7) One representative appointed by the Governor.

(8) Two clerks of the court, appointed by the Judicial Council.

(e) Staff assistance to the advisory committee shall be provided by the Department of Consumer Affairs, with the assistance of the Judicial Council, as needed.

SEC. 2. Section 32321 of the Financial Code is amended to read:

32321. (a) The official members of the board shall be:

(1) The Secretary of Trade and Commerce, or his or her designee.

(2) One member of the Energy Commission, selected and appointed by the members of the Energy Commission.

(3) The chairperson of the Small Business Development Board or his or her designee.

(b) The public members of the board shall be:

(1) One member selected and appointed by the Senate Rules Committee.

(2) One member selected and appointed by the Speaker of the Assembly.

(3) Two members selected and appointed by the Governor as follows:

(A) One member with a minimum three years' experience as an owner, partner, officer, or employee of a California-based small business.

(B) One member with a minimum three years' experience as an

officer or employee of a financial institution.

SEC. 3. Section 58576 of the Food and Agricultural Code is amended to read:

58576. An advisory committee shall be established to review and make recommendations to the director on which project proposals to fund. The advisory committee consists of all of the following:

(a) The President of the State Board of Food and Agriculture or his or her designee.

(b) The Secretary of Trade and Commerce or his or her designee.

(c) Two appointees of the director who have demonstrated international agricultural marketing experience and have had no fiduciary interest for the last two years in international marketing of agricultural products.

(d) Two appointees of the Governor who have demonstrated international agricultural marketing and financial experience and have had no fiduciary interest for the last two years in either marketing of agricultural products or finance.

(e) One appointee of the Senate Committee on Rules who has demonstrated international agricultural marketing experience and has had no fiduciary interest for the last two years in international marketing of agricultural products.

(f) One appointee of the Speaker of the Assembly who has demonstrated international agricultural marketing experience and has had no fiduciary interest for the last two years in international marketing of agricultural products.

(g) The Executive Director of the World Trade Commission or his or her designee.

The terms of the appointees shall be four years, except that the appointees first appointed to the advisory committee shall classify themselves by lot so that the term of two appointees shall expire on January 15, 1988, the term of two appointees shall expire on January 15, 1989, and the term of two appointees shall expire on January 15, 1990. In no event shall any appointee serve more than two consecutive terms.

The director shall designate one member of the advisory committee as its chairperson.

SEC. 4. Section 7072 of the Government Code is amended to read:

7072. For purposes of this chapter:

(a) "Agency" means the Trade and Commerce Agency.

(b) "Enterprise zone" means any area within a city, county, or city and county which is designated as such by the agency in accordance with the provisions of Section 7073.

(c) "Governing body" means a county board of supervisors or a city council, as appropriate.

(d) "High technology industries" include, but are not limited to, the computer, biological engineering, electronics, and telecommunications industries.

(e) "Eligible area" means a geographic area meeting the criteria

described in Section 7073.5.

SEC. 5. Section 7073 of the Government Code is amended to read:

7073. (a) The governing body of a city or county may, either by ordinance or resolution, propose an eligible area plus one commercial or industrial area or both within its respective jurisdiction as the geographic area for an enterprise zone. A county may propose an area within the unincorporated area as the geographic area for an enterprise zone, but shall not propose an area within an incorporated area. This proposed geographic area shall be based upon findings by the governing body that the area is a depressed area and that the designation as an enterprise zone is necessary in order to assist in attracting private sector investment in the area. The city or county shall establish definitive boundaries for the area to be included in the application for designation and, if designated by the agency, the designation shall be binding for a period of 15 years.

(b) Following the application for designation of an enterprise zone by a city or county, the governing body shall apply to the agency for designation. The agency shall adopt regulations and guidelines concerning the necessary contents of each application for designation.

(c) Any city, county, or city and county with an eligible area within its jurisdiction may complete a preliminary application. A maximum of 20 applications may be chosen each year to complete a final application.

(d) (1) From the applications received, the agency may designate by December 1991, not more than 25 enterprise zones within the state, one of which may be designated an airport enterprise zone and not more than three of which may be designated high technology enterprise zones.

(2) In the case of any existing enterprise zone or area established pursuant to Chapter 12.9 (commencing with Section 7080), or any new enterprise zone or area established pursuant to Chapter 12.9 (commencing with Section 7080) designated on or after the effective date of the act adding this paragraph, a city or county may propose that the enterprise zone or area established pursuant to Chapter 12.9 (commencing with Section 7080) within the incorporated area be expanded by 15 percent to include definitive boundaries that are contiguous to the enterprise zone or area established pursuant to Chapter 12.9 (commencing with Section 7080). The agency may approve that expansion for enterprise zones based upon the criterion specified in subdivision (e), and for expansion of areas established pursuant to Chapter 12.9 (commencing with Section 7080), the criterion specified in Section 7082.

(e) In designating enterprise zones, the agency shall select from the applications submitted those proposed enterprise zones which, based on those applications, meet, to the extent possible, the following criterion:

Those proposed enterprise zones which, upon a comparison of all of the applications submitted, indicate that they propose the most effective, innovative, and comprehensive regulatory, tax, program, and other incentives in attracting private sector investment in the zone proposed.

For purposes of this paragraph, regulatory incentives include, but are not limited to, all of the following: the suspension or relaxation of locally originated or modified building codes, zoning laws, general development plans, or rent controls; the elimination or reduction of fees for applications, permits, and local government services; and the establishment of a streamlined permit process.

Tax incentives include, but are not limited to, the elimination or reduction of construction taxes or business license taxes.

Program and other incentives may include, but are not limited to, all of the following: the provision or expansion of infrastructure; the targeting of federal block grant moneys, including small cities, education, and health and welfare block grants; the targeting of economic development grants and loan moneys, including grant and loan moneys provided by the federal Urban Development Action Grant program and the federal Economic Development Administration; the targeting of state and federal job disadvantaged and vocational education grant moneys, including moneys provided by the federal Job Partnership Training Act of 1982; the targeting of federal or state transportation grant moneys; and the targeting of federal or state low-income housing and rental assistance moneys.

In the process of designating new zones, the agency shall take into consideration the location of existing zones and make every effort to locate new zones in a manner that will not adversely affect any existing zones.

(f) In evaluating applications for designation, the agency shall ensure that applications are not disqualified solely because of technical deficiencies and shall provide applicants with an opportunity to correct the deficiencies. Applications shall be disqualified if the deficiencies are not corrected within two weeks.

(g) For purposes of this section, "high technology enterprise zone" means an enterprise zone which is intended to attract private sector investment in high technology industries and is proposed to be located in an area which would permit the association of those industries with an urban university or college.

(h) The applications and selection criteria for designation adopted pursuant to Section 7076 prior to the effective date of the act adding this subdivision shall apply to this section, as amended by the act adding this subdivision.

(i) Section 7076 shall not apply to the extent it conflicts with the provisions of the act adding this subdivision.

(j) For purposes of this section, "airport enterprise zone" means an enterprise zone intended to attract private sector investment in aviation-dependent industries, commercial aviation, and other commercial and industrial activity and which includes a rural airport

located within unincorporated territory.

SEC. 6. Section 7073.5 of the Government Code is amended to read:

7073.5. (a) An enterprise zone shall consist of both one eligible area plus one commercial or industrial area or both.

(b) An eligible area is a geographic area which, based upon the determination of the agency, fulfills at least one of the following:

(1) The proposed geographic area meets the Urban Development Action Grant criteria of the United States Department of Housing and Urban Development.

(2) The area within the proposed zone has experienced plant closures within the past two years affecting more than 100 workers.

(3) The city or county has submitted material to the agency for a finding that the proposed geographic area meets criteria of economic distress related to those used in determining eligibility under the Urban Development Action Grant Program and is therefore an eligible area.

(4) The area within the proposed zone has a history of gang-related activity, whether or not crimes of violence have been committed.

SEC. 7. Section 7074 of the Government Code is amended to read:

7074. (a) Individuals residing within an enterprise zone may establish, under the provisions of this chapter, a nonprofit neighborhood enterprise association corporation (NEAC) as follows:

(1) There shall be only one nonprofit neighborhood enterprise association corporation chartered for each, or any portion of, a geographic neighborhood area.

(2) The geographic neighborhood area to which each corporation applies shall be defined by the incorporating residents.

(3) An association shall become a chartered, nonprofit NEAC by a resolution of each governing body that has any of its area within the proposed NEAC area.

(b) The incorporating residents shall draft articles of incorporation and bylaws for a nonprofit mutual benefit corporation pursuant to the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code). The articles and bylaws of each corporation shall provide for each of the following:

(1) Describe the geographic neighborhood area to which the incorporating association applies.

(2) Describe the manner in which a membership interest in that corporation shall be offered to each resident and business owner of the neighborhood.

(3) Contain provisions for the amendment of the articles and bylaws by a majority of the members.

(4) Authorize the corporation to engage in business only within the particular zone in which the neighborhood area of the corporation is located.

(5) Establish only one class of membership, which shall have voting rights.

(6) Provide technical and financial assistance to private sector investors within an enterprise zone.

(c) The incorporating residents shall send to all residents and business owners of the corporation's neighborhood area each of the following:

(1) An explanation of the proposed new corporation and their rights in it.

(2) A copy of the corporate articles and bylaws.

(3) An offer of a membership interest to which each particular resident and business owner is entitled without any charge for that membership.

(d) The board of directors of the corporation shall apply to the Secretary of State for certification of its articles of incorporation establishing the corporation as a nonprofit corporation. The Secretary of State shall provide technical assistance to zone residents attempting to incorporate under this section.

(e) Upon certification of its articles of incorporation and compliance with paragraph (3) of subdivision (a), the NEAC shall send the agency a copy of its articles of incorporations and bylaws, the names of its officers, and an official copy of each resolution required in paragraph (3) of subdivision (a). The NEAC shall send the agency a copy of any and all changes in the above items or in the geographic neighborhood area to which the incorporating association applies.

(f) All property which is owned by the state or local government within the neighborhood area of a certified corporation and is not in current use by that government and which is not necessary for a public purpose of the state or local agency owning the property may be leased to the corporation at a price below fair market value, provided that it serves a public purpose to lease at below fair market value. Any lease agreement so executed shall permit the corporation to sublease or assign its leasehold interest to private entities conducting or intending to conduct business operations within the zone. The lease may be renewed upon expiration if the corporation has continuously complied with the requirements of this chapter.

SEC. 8. Section 7075 of the Government Code is amended to read:

7075. Upon filing a preliminary application, the applicant, as lead agency, shall submit an initial study and a notice of preparation to the agency, the state clearinghouse, and all responsible agencies. Only a city, county, or city and county chosen by the agency as a final applicant shall prepare, or cause to be prepared, a draft environmental impact report, which shall set forth the potential environmental impacts of any and all development planned within the enterprise zone. The draft environmental impact report shall be submitted to the agency with the final application. Prior to final designation by the agency, the applicant shall complete and certify

the final environmental impact report. The environmental impact report shall comply with the information disclosure provisions and the substantive requirements of Division 13 (commencing with Section 21000) of the Public Resources Code. No further environmental impact report shall be required if the effects of the project were either (1) mitigated or avoided as a result of the environmental impact report prepared for the area, or (2) examined at a sufficient level of detail in the environmental impact report for the area to enable those effects to be mitigated or avoided by specific site revisions, the imposition of conditions, or other means in connection with the designation of the area, or (3) identified in the final environmental impact report and the lead agency made written findings that specific economic, social, or other considerations made infeasible the mitigation measures or project alternatives identified in the final environmental impact report.

SEC. 9. Section 7076 of the Government Code is amended to read:

7076. (a) The agency shall design, develop, and make available the applications and the criteria for selection of enterprise zones, and shall adopt all regulations necessary to carry out this chapter.

(b) The applications, selection criteria, and all necessary regulations for designation shall be adopted and made available not later than 250 days following the effective date of this chapter.

(c) The agency may commence the designation of areas for the program on the effective date of the regulations described in subdivision (a) and shall complete those designations as expeditiously as practicable, but in no event later than four years from the effective date of this chapter.

(d) The agency shall adopt regulations concerning the designation procedures and application process as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. For the purpose of the Administrative Procedure Act, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare, notwithstanding subdivision (e) of Section 11346.1. Notwithstanding subdivision (e) of Section 11346.1, the regulations shall not remain in effect more than 180 days unless the agency complies with all provisions of Chapter 3.5 as required by subdivision (e) of Section 11346.1.

SEC. 10. Section 7078 of the Government Code is amended to read:

7078. The agency shall submit a report to the Legislature no later than March 20, 1987, and every five years thereafter, which evaluates the effect of the program on employment, investment, and incomes, and on state and local tax revenues in designated enterprise zones. The Franchise Tax Board shall make available to the agency and the Legislature aggregate information on the dollar value of enterprise zone tax credits that are claimed each year by businesses.

SEC. 11. Section 7079 of the Government Code is repealed.

SEC. 12. Section 7082 of the Government Code is amended to read:

7082. For purposes of this chapter:

(a) "Block group" means the smallest area for which the United States Department of Commerce, Bureau of the Census, provides data on personal income.

(b) "Cluster of block groups" means one or more contiguous block groups.

(c) "Poverty level" means the poverty level, as defined by the United States Department of Commerce, Bureau of the Census, as periodically updated.

(d) "High density unemployment area" means any of the following:

(1) A metropolitan statistical area or nonmetropolitan statistical area within this state, as identified by the Department of Commerce, which contains at least 4,000 people (in the case of a metropolitan statistical area) or at least 2,500 people (in the case of a nonmetropolitan statistical area) in a cluster of block groups, each of which meets the following criteria according to the most recent available decennial census information:

(A) The average unemployment rate for the block group for the most recent 12-month period for which data are available was at least one and one-half times the average national rate of unemployment for that 12-month period.

(B) The average poverty rate for the block group for the most recent 12-month period was at least one and one-half times the average national poverty rate for that 12-month period.

(C) At least 70 percent of the household earnings for the block group for the most recent 12-month period was a maximum of 80 percent of the average state household earnings for that 12-month period.

(D) The area excludes nondistressed areas.

(2) If an area does not meet the criteria of a high density unemployment area specified above, an applicant may petition to the department for the designation based upon compliance with one or more of the following:

(A) A special census is conducted and approved by the population research unit of the Department of Finance which demonstrates compliance with paragraph (1).

(B) The applicant's jurisdiction has experienced a major economic dislocation resulting from plant closure or closure of a federal installation within the last 12 months prior to the application.

(C) The applicant's jurisdiction contains a specifically defined geographic area that meets the eligibility criteria for pockets of poverty under the United States Department of Housing and Urban Development's Urban Development Action Grant (UDAG) program as described in 24 CFR Part 570, Sections 570.466(a) (2) and (a) (3), and as periodically updated.

(D) A block group meets substantially similar criteria measuring economic distress as that measured in paragraph (1). Each census block shall meet the "substantially similar" criteria.

(E) The area consists of the entire geographic area of a community. Area boundaries shall be synonymous with the boundaries of the community. As used in this subparagraph, "community" means a subdivision of a city or county (not including a city), including a neighborhood or suburb which has distinct boundaries, is recognized as a community by the individuals residing and working within the community, and has existed prior to the program planning process. Documentation demonstrating that the area meets the definition of "community" may include a map prepared for purposes other than the program, which lists both the name and boundaries of the community. The area shall meet the following criteria:

(i) Complies with the above definition of "community."

(ii) A minimum of 51 percent of the geographic area or population of the area meets the criteria of subparagraphs (A), (B), and (C) of paragraph (1), and the remainder of the area has substantially similar economic distress.

(3) A petition for designation of a high density unemployment area received by the agency after April 1, 1985, shall be reviewed by the agency pursuant to the criteria specified in paragraph (2).

(e) "Nondistressed area" means any block group which does not meet the definition of a high density unemployment area.

(f) "One-stop service" means an efficient and expeditious method for providing services to qualified businesses.

(g) "Agency" means the Trade and Commerce Agency.

(h) "Qualified business" means any person, corporation, or other entity certified during the taxable or income year by the agency as meeting paragraphs (1) and (2).

(1) During the period of designation, the entity is engaged in the active conduct of a trade or business within the program area.

(2) Meets any of the following requirements:

(A) Has an average of at least 50 percent of its employees who are residents of a high density unemployment area.

(B) Has an average of at least 30 percent of its employees who are residents of a high density unemployment area, and has set up a community service program or a substantial equivalent as defined by regulations, or programs approved by the local government entity and the community advisory council in which the program area is located, or both.

(C) Is a business at least 30 percent owned and operated by a resident or residents of a high density unemployment area. For purposes of this subparagraph, "owned and operated" means that the resident or residents of a high density unemployment area who are owners of the business are responsible for at least 30 percent of the work performed by the business and share in at least 30 percent of the ownership, control, management responsibility, risks, and

profits of the business.

For purposes of this subdivision, "a high density unemployment area" means the high density unemployment area contained in the applicant's final application to the agency if the population of that high density unemployment area is in excess of 150,000.

A business entity shall be certified prior to obtaining any benefits of a qualified business, and shall be recertified no less than every three years, as determined by the agency. The agency shall periodically audit qualified businesses for compliance with this section, and decertify any business found not in compliance. Priority shall be given to auditing qualified businesses within 18 months of the original certification of a business. A business may appeal to the secretary of the agency a decision to deny certification or recertification or a decision to decertify, within 30 days of the decision.

Financial institutions shall not be qualified businesses.

(3) A person, corporation, or other entity shall not be a qualified business if the business uses a residential structure in a high density unemployment area for a nonresidential use, unless the structure has been unoccupied for at least one year prior to designation of the program area.

(i) "Program area" means one targeted economic development area and, where applicable, one neighborhood economic development area in the Employment and Economic Incentive Program. The term applies both to areas contained in an application for designation, and an area awarded designation. In an application containing a high density unemployment area with a population in excess of 75,000, "program area" means the targeted economic development area, the high density unemployment area, and, where applicable, the neighborhood economic development area. The benefits of the Employment and Economic Incentive Program shall only accrue to program areas after designation.

(j) "Agent" means the person or entity designated by an applicant to facilitate the operations of the Employment and Economic Incentive Program as described in subdivisions (a) and (b) of Section 7087.

(k) "Applicant" means a city, county, or city and county applying for designation under the Employment and Economic Incentive Act.

(*l*) "Resident" means, unless otherwise defined, a person whose principal place of residence is within a high density unemployment area and who has lived in that area for six months prior to employment by the qualified business.

(m) "Infrastructure" means the physical systems and services which support development and people, including, but not limited to, streets and highways, transit services, airports, and water and sewer systems.

(n) "Community services" means any type of emergency assistance, counseling and advice, medical care, instructional, or social services, or recreational programs and facilities furnished to

individuals or groups in high density unemployment areas or program areas.

(o) "Neighborhood economic development area" means an area which meets all of the following criteria:

(1) It shall be located entirely within or contiguous to the high density unemployment area contained in the application for designation.

(2) It shall be zoned primarily commercial.

(3) Its boundary shall be continuous.

(4) It shall be of sufficient size to sustain a diverse mix of commercial businesses and its size and location shall be appropriate to reducing the economic distress within the high density unemployment area.

(5) At least a part of its area shall be within the territorial jurisdiction of the applicant. If an area for which designation is sought encompasses the territorial jurisdiction of two or more local governmental entities, all of those entities shall be a party to the application for designation, except that any one or more of those entities by resolution or ordinance may specify that it shall not participate in the application as an applicant, but shall agree to complete all actions stated within the application which apply to its jurisdiction, if the area is designated.

The area may have, but is not required to have, a history of gang-related activity whether or not crimes of violence have been committed.

No residential structure may be used for nonresidential use unless the structure has been unoccupied for at least one year prior to designation as a program area, or unless comparable replacement housing is provided for all persons displaced in accordance with Section 33413 of the Health and Safety Code. No person shall be displaced under this section unless relocation assistance is provided pursuant to Section 33415 of the Health and Safety Code.

An agricultural area shall not be designated as a neighborhood economic development area.

(p) "Targeted economic development area" means an area which meets all of the following criteria:

(1) Its boundary shall be continuous.

(2) It shall be zoned primarily industrial or other mixed business uses.

(3) It shall be of sufficient size to sustain a diverse mix of businesses and its size and location shall be appropriate to reducing the economic distress within the high density unemployment area.

(4) At least a part of its area shall be within the territorial jurisdiction of the applicant. If an area for which designation is sought encompasses the territorial jurisdiction of two or more local governmental entities, all of those entities shall be a party to the application for designation, except that any one or more of those entities by resolution or ordinance may specify that it shall not participate in the application as an applicant, but shall agree to

complete all actions stated within the application which apply to its jurisdiction, if the area is designated.

The area may have, but is not required to have, a history of gang-related activity, whether or not crimes of violence have been committed.

The area may be, but is not required to be, within a high density unemployment area. However, if the area is outside a high density unemployment area, it shall be within reasonable commuting distance of the high density unemployment area which is contained in the application for designation. If the area is outside a high density unemployment area, the applicant jurisdiction in which the area is located, in making its application, shall secure the endorsement of its application from at least one city or county which has jurisdiction within the high density unemployment area and is in close geographic proximity to the high density unemployment area.

The area may include vacant or sparsely developed parcels of land or abandoned facilities.

No residential structure may be used for nonresidential use unless the structure has been unoccupied for at least one year prior to designation as a program area, or unless comparable replacement housing is provided for all persons displaced in accordance with Section 33413 of the Health and Safety Code. No person shall be displaced under this section unless relocation assistance is provided pursuant to Section 33415 of the Health and Safety Code.

An agricultural area shall not be designated as a targeted economic development area.

(q) "Application area" means the program area and high density unemployment area contained in an application for designation.

SEC. 13. Section 7083 of the Government Code is amended to read:

7083. There shall be in the state an Employment and Economic Incentive Program, a demonstration program for economic development. Targeted economic development and neighborhood economic development areas shall be designated. These areas shall receive tax incentives, special assistance, startup capital, and other incentives for private investment and employment.

The agency shall use the most recent decennial census data to identify all high density unemployment areas in a statewide map according to county. The agency shall distribute the county maps to the respective counties and provide for statewide public notification of the availability of the maps. Cities, counties, and the agency are authorized to charge a reasonable fee to members of the public requesting copies of the maps.

SEC. 14. Section 7085 of the Government Code is amended to read:

7085. (a) An applicant may apply to the agency to have an area designated as a targeted economic development area, and if applicable, a neighborhood economic development area for a 15-year period.

(b) The applicant shall first file with the agency a preliminary application which shall include, but not be limited to, all of the following:

(1) One program area and one high density unemployment area, including the eligibility and geographic location and proximity of each.

(2) An economic development plan for the program area.

(c) The agency shall select no more than 20 final applicants annually to complete a final application. The final application shall include, but not be limited to, all of the following:

(1) A comprehensive economic development strategy for the program area which provides for meaningful involvement of community residents, community businesses, and other community entities in the planning and preparation of that strategy. The strategy shall only be approved by local ordinance or resolution following a public hearing. The applicant shall provide for public notice of the hearing on the strategy.

(2) A community impact statement which analyzes the impact of designation on the community and includes both of the following:

(A) An evaluation of the effect of the new development on the area's infrastructure.

(B) The effect of the new development on the provision of community services.

(3) A plan which specifies economic development objectives and assigns a priority to each objective.

(4) The manner and level in which community services and infrastructure, particularly through experimentation with community and private sector involvement, will be improved to accommodate new development.

(5) A description of current economic development projects in the application area and an analysis of how participation in the application area will supplement existing economic development activities.

(6) An identification of funds for economic development activities from federal, state, local, and private sources which are planned for use in the application area.

(7) An evaluation of the employment, job skills, and management training needs of businesses and residents in the application area.

(8) An estimate of the number of new jobs that will result from the program based on the employment needs evaluation made pursuant to paragraph (7).

(9) A description of specific actions and timetables to reduce, remove, simplify, or streamline local requirements and the local permit process within the application area without endangering the public health, safety, and welfare in the community.

(10) Proposed involvement in the program by private entities, organizations, neighborhood organizations, and neighborhood groups.

(d) The agency shall design, develop, and make available the

applications, the criteria for selection, and all regulations regarding this chapter.

(e) In competitively evaluating the applications for the program designation, the agency shall give special preference to those areas with respect to which the strongest and highest quality contributions described in subdivision (b) are indicated. The form and manner in which applications are required to be submitted shall minimize the paperwork of the applicant.

(f) The agency shall also give preference to those applications that provide a plan for local efforts to reduce impediments to economic development and maintain the quality of life of the community, which include, but are not limited to, the following:

(1) A proposal for program areas close enough for easy access to the high density unemployment areas or which route transit service to serve employees.

(2) A plan to encourage the retention and expansion of existing businesses.

(3) A strategy for the recruitment of new businesses into the program area.

(4) A realistic projection of the new job opportunities that are suitable to the needs of application area residents.

(5) A plan to demonstrate innovative and comprehensive strategies to improve community services through the utilization of contracts with private entities, organizations, neighborhood organizations, and neighborhood groups.

(6) A plan to provide insurance for qualified businesses in the program area.

(7) A plan to establish a loan bank or fund to provide capital to qualified businesses in the program area.

(8) A plan to rehabilitate existing abandoned and vacant structures.

(g) The agency shall establish regulations and make available the applications for the program not later than 250 days after the effective date of this chapter.

(h) The agency may designate areas for the program beginning on the effective date of the regulations described in subdivision (g).

(i) The agency may designate not more than a total of nine program areas. In complying with this limitation, the agency shall designate not more than three program areas by the end of 1985, not more than six program areas by the end of 1986, and not more than nine program areas by the end of 1987. The agency may not designate pursuant to this chapter any area that has been designated for economic development as an enterprise zone under any other provision of state law.

In evaluating applications for designation, the agency shall ensure that applications are not disqualified solely because of technical deficiencies and shall provide applicants with an opportunity to correct the deficiencies. Applications shall be disqualified if the deficiencies are not corrected within two weeks.

(j) The agency shall adopt regulations concerning the designation procedures and application process as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. For the purpose of the Administrative Procedure Act, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare, notwithstanding subdivision (e) of Section 11346.1. Notwithstanding subdivision (e) of Section 11346.1, the regulations shall not remain in effect more than 180 days unless the agency complies with all provisions of Chapter 3.5 as required by subdivision (e) of Section 11346.1.

SEC. 14.5. Section 7086 of the Government Code is amended to read:

7086. (a) The agency shall provide technical assistance to the areas designated pursuant to this chapter with respect to all of the following activities:

(1) Furnish limited onsite assistance to the program areas when appropriate.

(2) Ensure that the agent has developed a method to make residents, businesses, and neighborhood organizations aware of the opportunities to participate in the program.

(3) Help the locality develop a marketing program for the program areas.

(4) Coordinate activities of other state agencies regarding the program areas.

(5) Monitor the progress of the program.

(6) Help qualified businesses to participate in the program.

Notwithstanding existing law, the provision of services in paragraphs (1) to (6), inclusive, shall be a high priority of the agency.

The agency may, at its discretion, undertake other activities in providing management and technical assistance for successful implementation of this section.

(b) The agency shall submit a report to the Legislature no later than March 20, 1987, and every five years thereafter, which evaluates the effect of the program on employment, investment, and incomes, and on state and local tax revenues in designated program areas.

(c) The applicant shall be required to begin implementation of the program plan contained in the final application within six months after notification of final designation or the program area shall lose its designation.

(d) No designation of a neighborhood economic development area shall be made without an accompanying designation of a targeted economic development area serving the same high density unemployment area. However, designation of a targeted economic development area does not require concurrent designation of a neighborhood economic development area.

SEC. 15. Section 7087 of the Government Code is amended to read:

7087. (a) The applicant shall designate an agent which shall be

the prime facilitator of all activities relating to the Employment and Economic Incentive Program. In designating an agent, the applicant may consider the designation of a community-based nonprofit organization, a joint venture between the public and private sector, or an agency of the applicant as the agent.

(b) The responsibilities of the agent shall include, but are not limited to, assisting and coordinating in all of the following:

(1) Providing one-stop service for permit processing for qualified businesses in the program area. Facilitating the development of qualified businesses shall be the primary responsibility of the agent.

(2) Coordinating the sequence of all inspections to minimize delay to businesses.

(3) Helping the qualified businesses find low-interest capital.

(4) Maintaining labor availability data, which may be obtained from the Employment Development Department.

(5) Assisting in employment recruitment and screening.

(6) Reducing the processing time of the permit process for builders.

(7) Centralizing the processing of documents, permits, and licenses.

(8) Informing all qualified businesses of all the various incentives offered by, and available from, local, state, and the federal government, including, but not limited to, incentives relating to taxation, fee schedules and structures, and modified procedures for permits.

(9) Working with the local and state job training and recruitment resources to make those resources available to qualified businesses.

(c) A community advisory council shall be formed in conjunction with each application for designation, the purpose of which is to allow community involvement in the program. The members of the council shall be appointed by the local governing body and shall consist of at least one representative from each of the following groups:

(1) Program area residents.

(2) High density unemployment area residents.

(3) Businesses located in a program area.

(4) Local government representatives.

(5) Private industry council members.

(6) Agency officials, when necessary.

(7) Small business development corporations created pursuant to the Small Business Development Corporation Law, where available.

(8) Community-based organizations.

(d) Any existing community advisory council which contains substantially the same membership may serve as the advisory council provided for by this section.

(e) The advisory council shall do all of the following:

(1) Meet at least once a month during the formulation of the comprehensive economic development strategy for the final application.

(2) Following designation, meet at least once every three months throughout the duration of the program to monitor the progress of the program and to aid and assist the agent with plan implementation.

(3) Initiate or coordinate community programs which may include programs providing for the following:

(A) Neighborhood crime prevention and improved security.

(B) Recreation.

(C) Health care.

(D) Senior citizens nutrition.

(E) Child care.

(F) Job training.

SEC. 16. Section 7087.5 of the Government Code is amended to read:

7087.5. Upon filing a preliminary application, the applicant, as lead agency, shall submit an initial study and a notice of preparation to the agency, the state clearinghouse, and all responsible agencies. Only a city, county, or city and county chosen by the agency as a final applicant shall prepare, or cause to be prepared, a draft environmental impact report, which shall set forth the potential environmental impacts of any and all development planned within the program area. The draft environmental impact report shall be submitted to the agency with the final application. Prior to final designation by the agency, the applicant shall complete and certify the final environmental impact report. The environmental impact report shall comply with the information disclosure provisions and the substantive requirements of Division 13 (commencing with Section 21000) of the Public Resources Code. No further environmental impact report shall be required if the effects of the project were either (1) mitigated or avoided as a result of the environmental impact report prepared for the program area, or (2) examined at a sufficient level of detail in the environmental impact report for the program area to enable those effects to be mitigated or avoided by specific site revisions, the imposition of conditions, or other means in connection with the designation of the program area, or (3) identified in the final environmental impact report and the lead agency made written findings that specific economic, social, or other considerations made infeasible the mitigation measures or project alternatives identified in the final environmental impact report.

SEC. 17. Section 7092 of the Government Code is amended to read:

7092. Notwithstanding any other provision of law, and to the extent permitted by federal law, the Employment Development Department and the State Department of Education shall give high priority to the training of unemployed individuals who reside in a high density unemployment area, designated program area, or any enterprise zone which is designated under any other provision of state law. The agency may assist local agents in designating local

business, labor, and education consortia to broker activities between the employment community and educational and training institutions. Any available discretionary funds may be used to assist the creation of those consortia.

SEC. 18. 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 Trade and Commerce 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. 19. Section 8258 of the Government Code is amended to read:

8258. (a) The commission, the Trade and Commerce Agency, and the State Treasurer shall select participating eligible lenders.

(b) An application to guaranty a loan made pursuant to the provisions of this chapter shall be made by an eligible lender on such form as the commission may require. The application shall set forth the amount of the loan, its maturity, interest rate, amortization, and any other information required by the commission.

(c) If, upon application by an eligible lender, the commission finds that the lender has made an eligible loan, the commission shall cause the loan to be guaranteed.

SEC. 20. Section 8684.2 of the Government Code is amended to read:

8684.2. (a) It is the intent of the Legislature:

(1) To provide the Governor with appropriate emergency powers in order to enable utilization of available emergency funding to provide guarantees for interim loans to be made by lending institutions, in connection with relief provided for those persons affected by natural disasters or a state of emergency in affected areas during periods of disaster relief assistance, for the purpose of supplying interim financing to enable small businesses to continue operations pending receipt of federal disaster assistance.

(2) That the Governor should utilize this authority to prevent business insolvencies and loss of employment in areas affected by these disasters.

(b) In addition to the allocations authorized by Section 8683 and the loan guarantee provisions of Section 14030.1 of the Corporations Code, the Governor may allocate funds made available for the purposes of this chapter, in connection with relief provided, in affected areas during the period of federal disaster relief, to the Small Business Expansion Fund for use by the Office of Small Business, pursuant to Chapter 1 (commencing with Section 14000) of Part 5 of Division 3 of Title 1 of the Corporations Code, to provide guarantees for low-interest interim loans to be made by lending institutions for the purpose of providing interim financing to enable small businesses that have suffered actual physical damage or significant economic losses, as a result of the natural disaster or state of emergency for which funding under this section is made available, to continue or resume operations pending receipt of loans made or guaranteed by the federal Small Business Administration. The maximum amount of any loan guarantee funded under this paragraph shall not exceed two hundred thousand dollars ($200,000). Each loan guarantee shall not exceed 95 percent of the loan amount, except that a loan guarantee may be for 100 percent of the loan amount if the applicant can demonstrate that access to business records pertinent to the loan application has been precluded by official action prohibiting necessary reentry into the affected business premises or that those

business records pertinent to the loan application have been destroyed. The term of the loan shall be determined by the lending institution providing the loan or shall be made payable on the date the proceeds of a loan made or guaranteed by the federal Small Business Administration with respect to the same damage or loss are made available to the borrower, whichever event first occurs.

(c) Loan guarantees for which the initial 12-month term has expired and for which an application for disaster assistance funding from the federal Small Business Administration is still pending may be extended until the Small Business Administration has reached a final decision on the application. Applications for interim loans shall be processed in an expeditious manner. Wherever possible, lending institutions shall fund nonconstruction loans within 60 calendar days of application. Loan guarantees for loans which have been denied funding by the federal Small Business Administration, may be extended by the financial institution provided that the loan is for no longer than a maximum of seven years, if the business demonstrates the ability to repay the loan with an extended loan term, and a new credit analysis is provided. All loans extended under this provision shall be repaid in installments of principal and interest, and be fully amortized over the term of the loan. Nothing in this section shall preclude the lender from charging reasonable administrative fees in connection with the loan.

(d) Allocations pursuant to this section shall, for purposes of all provisions of law, be deemed to be for extraordinary emergency or disaster response operation costs, as provided in Section 8690.6, incurred by the Office of Small Business.

(e) The Trade and Commerce Agency may adopt regulations to implement the loan guarantee program authorized by this section. The department may adopt these regulations as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Government Code, and for purposes of that chapter, including Section 11349.6, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, the regulations shall be repealed within 180 days after their effective date unless the agency complies with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Government Code, as provided in subdivision (e) of Section 11346.1 of the Government Code.

(f) Within 60 days of the conclusion of the period for guaranteeing loans under any small business disaster loan guarantee program conducted for a disaster as authorized by Section 8684.2 of the Government Code or Section 14075, the agency shall provide a report to the Legislature on loan guarantees approved and rejected by gender, ethnic group, type of business and location, and each participating loan institution.

SEC. 21. Section 8850 of the Government Code is amended to read:

8850. (a) The Legislature finds and declares that it is in the public interest to aid, counsel, assist, and protect, insofar as is possible, the interests of small business concerns in order to preserve free competitive enterprise and maintain a healthy state economy.

(b) In order to advocate the causes of small business and to provide small businesses with the information they need to survive in marketplace, there is created in the Trade and Commerce Agency a California Small Business Advocate.

SEC. 22. Section 8850.2 of the Government Code is amended to read:

8850.2. (a) The advocate shall be appointed by, and shall serve at the pleasure of, the Governor.

(b) To accomplish the purposes of this chapter, the Secretary of the Trade and Commerce Agency may assign other 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 advocate for such periods of time as are necessary to enable the advocate to carry out his or her responsibilities.

(c) The Director of the Office of Small Business may also serve as the advocate.

SEC. 23. Section 13899.5 of the Government Code is amended to read:

13899.5. The working group shall be composed of not more than 15 members, of which one shall be the Secretary of the Trade and Commerce Agency or designee. The working group shall be broadly representative of the geographic, gender, and cultural diversity of the state, and shall include, but not be limited to, representatives of the following groups:

(a) Local elected officials representing regions significantly affected by federal spending.

(b) Businesses significantly affected by federal spending.

(c) Local economic development associations.

(d) Private and public sector economists.

(e) Institutions of higher education engaged in federally supported research.

(f) Public employment training programs.

(g) Public interest groups.

(h) Labor unions.

Of the members of the working group, at least three shall be from among a list of names submitted by the Chairman of the Assembly Committee on Local Government and at least three from a list of names submitted by the Chairman of the Senate Rules Committee.

The working group shall be voluntary, and the commission shall expend no state funds for per diem, including travel expenses, for the members of the working group.

SEC. 24. Section 14998.1 of the Government Code is amended to

read:

14998.1. The Legislature finds that motion picture production in California provides unique and significant contributions to the economy of California and to the cultural enrichment of its citizens, as well as providing a unique form of entertainment for the state, country, and the world at large. The Legislature finds that expenditures for hotels, catered food, leases of equipment and property, transportation, and wages and salaries paid to individuals in California as a result of motion picture production benefit the California economy directly and indirectly.

However, the Legislature finds that the significant benefits provided to California by motion picture production are in jeopardy as a result of the concerted efforts of other states and countries to lure this production away from California.

Therefore, the Legislature finds a need for concerted efforts by California state and local governments to provide an environment supportive of, and conducive to, the undertakings of the motion picture industry in this state. A key element of this effort is to make California as uniform as possible in the local regulation and permitting of the film industry; as close to a "one-stop permitting" approach as possible.

SEC. 25. Section 14998.2 of the Government Code is amended to read:

14998.2. (a) There is in the Trade and Commerce Agency, the California Film Commission consisting of 26 members. The Governor shall appoint 13 members, the Senate Rules Committee shall appoint four members, the Speaker of the Assembly shall appoint four members, and five members shall be ex officio. The members of the commission appointed by the Governor may include representatives of state and local government, motion picture development companies, employee and professional organizations composed of persons employed in the motion picture industry, and other appropriate members of this or related industries.

All members of the commission, except legislators who are appointed either by the Senate Rules Committee or by the Speaker of the Assembly, shall serve at the pleasure of the appointing authority for a term of two years from the effective date of the appointment.

(b) One of the members appointed by the Senate Rules Committee shall, and another one may, be a Senator and one of the members appointed by the Speaker shall, and another one may, be a Member of the Assembly. Such persons shall be appointed for terms of four years.

Of the legislators appointed to the commission, no more than three legislators from the same political party may be appointed to or serve on the commission at the same time.

(c) Any legislator appointed shall serve as a voting member of the commission, and shall meet with, and participate in the activities of, the commission to the extent that participation is not incompatible

with his or her position as a Member of the Legislature, but shall only serve in that capacity while concurrently serving as a Member of the Legislature. Whenever a legislator vacates an office, the appointing power shall appoint another person for a new full term.

(d) Six of the 13 members appointed by the Governor shall be as follows:

(1) One shall be a person who is a member or employee of a union or guild of motion picture artists.

(2) One shall be a person who is a member or employee of a union or guild representing motion picture craftsmen, technicians, or photographers.

(3) Two shall be from major motion picture studios.

(4) One shall be a member of the city council or a member of the county board of supervisors of a city or a county with a population of at least two million people.

(5) One shall be a member of the city council or a member of the county board of supervisors of a city or a county with a population of less than two million people.

(e) The Director of Transportation shall serve as an ex officio nonvoting member.

(f) The Director of Parks and Recreation shall serve as an ex officio nonvoting member.

(g) The Commissioner of the California Highway Patrol shall serve as an ex officio nonvoting member.

(h) The State Fire Marshal shall serve as an ex officio nonvoting member.

(i) The director of the commission shall serve as an ex officio nonvoting member.

SEC. 26. Section 14998.3 of the Government Code is amended to read:

14998.3. The commission shall submit a list of recommended candidates for the position of Director of the Film Office to the Governor for consideration. The Governor shall appoint the director.

(b) The Director of the Film Office shall receive a salary to be determined by the Department of Personnel Administration.

(c) The secretary, or his or her designee, shall act as the director during the absence from the state or other temporary absence, disability, or unavailability of the director, or during a vacancy in that position.

SEC. 27. Section 14998.6 of the Government Code is amended to read:

14998.6. The director and staff of the Film Office, shall provide staff support to the California Film Commission. When needed, the secretary may assign additional staff on a temporary or permanent basis.

SEC. 28. Section 14998.7 of the Government Code is amended to read:

14998.7. Any funds appropriated to, or for use by, the California Film Commission or to the agency for purposes of this chapter, shall

be under the control of the secretary or his or her designee.

SEC. 29. Section 14998.8 of the Government Code is amended to read:

14998.8. (a) The Director of the Film Office shall be the permitting authority for the use of state-owned property and state employee services for the purpose of making commercial motion pictures. The commission may establish fees not to exceed the actual cost of the affected state agency for this purpose. All fees collected pursuant to this section shall be deposited in the Film Transfer Account, which is hereby created in the Special Deposit Fund, for disbursement by the director to reimburse the operating departments for their actual costs.

(b) The Director of the Film Office shall assure a "one-stop" permit process for applications for permission to use state-owned property for motion pictures. In so doing, applications for permission to use state property for making motion pictures shall be made to the director of the commission who, promptly upon receipt of such an application, shall contact the state agency having jurisdiction over the property specified in the application for the concurrence of the agency in the use of property. The denial of an application may be made on the basis of any of the following:

(1) The use would unduly interfere with the conduct of state business.

(2) Failure of the permittee to provide full insurance or bond coverage, if required by the Department of General Services, or the affected agency, sufficient to reimburse the state for any user-caused damage to the property and to provide adequate personal liability insurance coverage.

The use of state property shall be denied, if it is determined that the use would violate or be in conflict with existing provisions of statute or regulation by the director of the department, agency, or commission responding to a permit request.

(c) Any state agency having management and control over state property, the use of which is sought by an application, shall permit the property to be used, unless otherwise denied by the provisions of this section.

(d) Nothing in this section requires a state agency to take any action not authorized by law or to make any decision in a manner or by a method not authorized by law or which is prohibited by law.

(e) If in connection with the use of roads, highways, and freeways, the assistance, control, or protection by California Highway Patrol officers is desired, applications to the director to utilize services of California Highway Patrol officers in the production of motion pictures shall be made directly to the Commissioner of the California Highway Patrol. The commissioner may approve the application if employees are available and the agency is fully reimbursed for additional costs incurred. Applications to utilize California Highway Patrol employee services shall be approved or disapproved by the commissioner.

(f) The Director of the Film Office, whenever feasible, shall approve or deny any application within 24 hours. In the event that the director of the department or agency having jurisdiction over the property specified in the application permit takes no action to disapprove the application within five working days, the application shall be deemed approved by the director. If the director of the department or agency determines that he or she is unable to concur or deny an application within five working days and so notifies the director within five working days of the application, the director shall then have a total of 10 days from receipt of the application to deny the application. In the event no action is taken by the director within the 10-day period, the application shall be deemed approved by the director.

(g) At least 30 days prior to adoption of state regulations, rules, written guidelines, or policies that would have clear, explicit, and definite implications for the production of motion pictures on state-owned property by a state agency, including any of that agency's district or regional offices, other than for immediate health and safety purposes, the agency shall submit a written copy to the Director of the Film Office. The commission shall review the proposal and report its findings to the submitting agency within five working days of receipt of the materials sent. The submitting agency shall consider the commission's findings prior to final adoption of the regulations, rules, written guidelines, or policies, unless the commission's findings are not made available to the submitting agency within the above prescribed time limits. Any and all findings made by the commission pursuant to this section shall be advisory. The submitting agency shall provide the commission with a final written copy of its adopted regulations, rules, written guidelines, or policies.

SEC. 29.5. Section 14998.9 of the Government Code is amended to read:

14998.9. The Director of the Film Office shall prepare and implement a program to promote the production of motion pictures and still photography for the benefit of the state's economy.

The program shall do, but shall not be limited to doing, all of the following:

(a) Administer a one-stop permit office, pursuant to subdivision (b) of Section 14998.8, which shall issue permits for the use of state property for filmmaking.

(b) Implement the guidelines or regulations for a standardized permit procedure for all state agencies pursuant to guidelines adopted by the commission under Section 14998.4.

(c) Update and expand the location resource library.

(d) Produce and implement a marketing and promotion plan for filmmaking in California which shall be subject to the approval of the commission. The purpose of the plan shall be to design a program for the preparation and distribution of appropriate promotional and informational materials pointing out desirable locations within the

state for the production of motion pictures, explaining the benefits and advantages of producing motion pictures within the state government, as well as those services available at the local level and within the industry.

(e) Conduct workshops to assist local governments to adopt uniform permit procedures and to establish film development offices.

(f) Request and obtain any information from state entities necessary to carry out the purposes of this section.

(g) Accept grant moneys for the purpose of implementing this section.

(h) Accept gifts and donations for the purpose of implementing this section.

SEC. 30. Section 14999.21 of the Government Code is amended to read:

14999.21. (a) The California Film Commission shall send to each city and county a copy of the model process for granting film permits for local consideration. Not later than December 31, 1989, each jurisdiction shall adopt this process or inform the California Film Commission in writing as to why they cannot or need not adopt this model process.

(b) At least 30 days prior to the adoption of or an amendment to the written filming policy of a local government, the local government shall submit a draft of the ordinance or amendment to the Director of the Film Office. The Film Office shall review drafts submitted to it and report its findings to the local government within five working days of receipt of the draft. The local legislative body shall consider the Film Office's findings prior to final adoption of the ordinance or amendment unless the commission's findings are not available within the above prescribed time limits. Any and all findings made by the commission pursuant to this section shall be advisory to local government.

(c) Each local government shall provide the commission with a copy of its adopted filming ordinance or amendments.

SEC. 31. Section 14999.31 of the Government Code is amended to read:

14999.31. The Film Office and its director shall encourage the use of the uniform application form described in Section 14999.32 for obtaining a local permit to engage in film production within the jurisdiction of a county, city, or city and county. As used in this chapter "film" includes, but is not limited to, feature motion pictures, videotapes, television motion pictures, commercials, and stills. "Production" means the activity of making a film for commercial or noncommercial purposes on property owned by a county, city, or city and county or on private property within the jurisdiction of a county, city, or city and county.

SEC. 32. Section 15310 of the Government Code is repealed.

SEC. 33. Section 15310 is added to the Government Code, to read:

15310. The following definitions shall apply to this part:

(a) "Agency" means the Trade and Commerce Agency.

(b) "Secretary" means the Secretary of the Trade and Commerce Agency.

SEC. 34. Section 15311 of the Government Code is repealed.

SEC. 35. Section 15320 of the Government Code is repealed.

SEC. 36. Section 15321 of the Government Code is repealed.

SEC. 37. Section 15322 of the Government Code is repealed.

SEC. 38. Section 15323 of the Government Code is repealed.

SEC. 39. Section 15323.5 of the Government Code is amended to read:

15323.5. The agency shall maintain regional offices in the San Francisco Bay area, Los Angeles County, Sacramento, and the greater San Diego area in order to carry out its functions and duties. The San Diego regional office shall pay particular attention to economic development issues involving the border, including maquiladoras, labor, tourism, and other factors, and shall make recommendations at least annually to the Governor and the Legislature on methods, programs, and policies to improve the growth of jobs, income, and standards of living along the border.

SEC. 40. Section 15325 of the Government Code is amended to read:

15325. The work of the agency shall be divided into at least the following;

(a) The Office of Economic Research.

(b) The Office of Local Development.

(c) The Office of Business Development.

(d) The Office of Tourism.

(e) The Office of Small Business.

(f) The Film Office.

(g) The Office of Marketing and Communications.

(h) The Office of Competitive Technology.

(i) The Office of Foreign Investment.

(j) World Trade Commission, including international trade and investment offices, Office of Export Development, and Export Finance Office.

(k) California Field Offices.

(*l*) Office of Trade Policy and Research.

(m) Office of Permit Assistance.

SEC. 41. Section 15326 of the Government Code is amended to read:

15326. Each office shall be in the charge of a director under the direction of the secretary. The directors shall be appointed, upon recommendation by the secretary, by the Governor. The directors shall hold office at the pleasure of the secretary, and shall receive a salary as shall be fixed by the secretary with the approval of the Department of Personnel Administration.

SEC. 42. Section 15327 of the Government Code is amended to read:

15327. In order to carry out the provisions of this chapter, there

is hereby created in the State Treasury the California Economic Development Grant and Loan Fund.

The California Economic Development Grant and Loan Fund is created only for the purpose of: (a) receiving federal, state, and local money for subsequent allocation by the agency in the form of grants or loans to public agencies and private entities; (b) receiving repayments of loans or grants and interest on those loans and grants for subsequent reallocation as grants or loans without regard to a federal matching share so long as the proceeds are used for economic development in a manner consistent with Section 304 of Public Law 89-136 (42 U.S.C. 3153); and (c) receiving fees for subsequent expenditure as authorized by Section 15328.

State funds allocated to the fund in excess of any amount needed to match the federal, state, and local funds, shall be available for economic development grants or loans or both, without regard to the matching share.

Notwithstanding Section 13340, all money deposited in the California Economic Development Grant and Loan Fund and the Grant and Loan Collection Account established pursuant to Section 15327.6 shall remain available, and is continuously appropriated to the agency, until expended or obligated without regard to fiscal years for purposes of this part.

At the request of the secretary, the Treasurer shall invest existing moneys in the fund and in the account pursuant to Sections 16470 through 16475 and to the extent and under the conditions specified by present law.

The agency may advance to the recipient up to 50 percent of the state's share of any loan or grant awarded once final approvals have been made by the state.

SEC. 43. Section 15327.1 of the Government Code is amended to read:

15327.1. (a) All or a portion of the funds in the California Economic Development Grant and Loan Fund may be paid out, with the approval of the Department of Finance, to lending institutions eligible under Sections 16521 and 16611 to receive state deposits. Funds paid out to those institutions shall be expended solely for the purposes of the Economic Development Grant and Loan Fund. Those payments shall be made by the Treasurer on warrants drawn by the Controller and requisitioned by, and at the request of, the agency or pursuant to a grant or contract conditions. These conditions apply retroactively to all federal, state, and local money, including interest received by, and allocated by, the agency since 1984.

(b) No outside bank accounts shall be established pursuant to subdivision (a) without the prior approval of the Director of Finance. The director may, at any time, withdraw that approval.

(c) The state has a residual interest in the revenues from the investment and any principal of the funds deposited or transferred to eligible lending institutions pursuant to this section. Any accrued

interest from those investments shall be considered as part of the Economic Development Grant and Loan Fund and shall be expended for the purposes of the fund.

The state is not liable or obligated in any way beyond the state money which was paid out or transferred to eligible institutions pursuant to this section.

SEC. 44. Section 15327.5 of the Government Code is amended to read:

15327.5. (a) Notwithstanding Section 15327, the agency may pool the loans and sell any notes or other evidence of indebtedness derived from grants or loans of moneys on deposit in the California Economic Development Grant and Loan Fund. In addition, the agency may insure those loans.

(b) The proceeds derived from the sale of notes or other evidence of indebtedness shall be used for economic development in a manner consistent with Section 304 of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. Sec. 3153).

(c) Any local development corporation may participate in a transaction by the department of notes or other evidence of indebtedness pursuant to subdivision (a).

SEC. 45. Section 15328 of the Government Code is amended to read:

15328. (a) In order to defray costs to the agency for administration of its direct loans and grant programs, the agency 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.

(b) The agency 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.

SEC. 46. Section 15328.5 of the Government Code is repealed.

SEC. 47. Section 15330 of the Government Code is amended to read:

15330. The agency shall be the principal state agency responsible for:

(a) Coordinating federal-state-local relationships in economic development, the continual evaluation of the impact of policies and programs affecting economic development, and encouraging the full utilization of programs available for assisting the residents of the state and local public entities in satisfying the economic

development needs of the state.

(b) Applying for and allocating federal funds available under the Public Works and Economic Development Act of 1965, as amended, and such other federal funds as may be available which will promote and assist economic development in the state.

(c) Assisting state agencies, offices, and departments to implement the state economic policy pursuant to Part 12 (commencing with Section 15900) of Division 3 of Title 2 and serving as an advisory agency to the Governor in the preparation of the Economic Report of the Governor as required by Section 15901.

(d) Responding to inquiries and providing statistics and other information on the economy, visitor attractions, international trade, products and processes, and services provided by the agency.

(e) The agency in carrying out its responsibilities shall make maximum use of base data and studies currently being prepared and distributed by other state agencies. It shall avoid duplication of these efforts where possible.

(f) Assisting employees of a business or place of work in the formation of an employee-owned corporation, as defined by Section 91502.1, at that business or place of work, at the request of the employees and when that business or place of work is closing or is in danger of closing, by providing technical assistance, information, or access to sources of financing. The responsibilities created by this subdivision shall be permissive in the absence of nonstate funds unless state funds are specifically authorized by the Legislature for the purposes of this subdivision.

(g) Marketing California as a cost-effective and advantageous place for businesses to locate or expand. This subdivision shall not be construed to require any local government to participate, except in a voluntary manner, in this program.

(h) In order to defray costs to the General Fund of providing publications, as defined in Section 14902, when warranted in the opinion of the secretary, the agency may charge fees to cover estimated printing and mailing costs for publications, except for publications distributed pursuant to Sections 14900, 14901, 14903, 14904, 14905.1, and 14907.

The agency may adopt and enforce rules and regulations in order to implement the above responsibilities.

SEC. 48. Section 15330.1 of the Government Code is amended to read:

15330.1. Trademarks developed by the department, including, but not limited to, "The Californias," that enhance the fulfilling of the agency's responsibilities and programs shall not be construed as an agency of, or official endorsement by, the State of California.

SEC. 49. Section 15330.2 is added to the Government Code, to read:

15330.2. The Film Office shall perform the following functions and activities:

(a) Provide staff for the California Film Commission.

(b) Implement the Cooperative Motion Picture Marketing Plan.

(c) Provide services necessary to increase the amount of filming within California.

SEC. 50. Section 15331 of the Government Code is amended to read:

15331. The Office of Economic Research shall perform the following functions and activities:

(a) Gather, analyze, and interpret pertinent information on the economy developed by itself, other governmental and private agencies and publish and disseminate statistics and other information useful to industry, commerce, and agriculture. A fee may be charged for such publications to cover the cost of publication and dissemination.

(b) Provide assistance to other state agencies in the development of information or other pertinent data on the economy and the economic development of the state.

(c) Prepare or sponsor studies on the economic potential of various types of business, commercial, or industrial development in improving the economy of the state, the creation of job opportunities and the effect on resources and environment of the state.

(d) Study, recommend, and report to the secretary on the impact of governmental policies and regulations and the expected impact of proposed policies and regulations which do or may unduly restrict beneficial economic development.

(e) Respond to inquiries by persons in industry, business, commerce, or other governmental units concerning the economy and economic conditions in the state.

SEC. 50.5. Section 15331.2 of the Government Code is amended to read:

15331.2. (a) The Legislature finds and declares that while a myriad of sources of technical assistance and information are available within the state on small businesses, lack of integration of those sources and lack of adequate information on the state's small businesses remains a problem when addressing the status of small business from a legislative perspective.

(b) It is the intent of the Legislature that, in order to provide a better framework for consideration of the issues regarding the state's small businesses, the agency shall maintain a centralized information system on small business. The data shall be compiled from, but not limited to, the following:

(1) State Board of Equalization.

(2) Franchise Tax Board.

(3) Office of Small and Minority Business within the Department of General Services.

(4) Employment Development Department.

(5) Small Business Advocate within the Trade and Commerce Agency.

(6) United States Small Business Administration.

(7) United States Census Bureau.

This data shall include, but not be limited to, any pertinent information regarding the numbers of small businesses, demographics, minority- and women-owned, net income, payroll, employee benefits, funding sources, size classification, and any other information deemed necessary by the agency to carry out the objectives of this chapter.

The above-named departments and units within the California state government shall be responsible for full cooperation with the agency to explore opportunities for expanding the scope and amount of information on the state's small business economy.

Nothing in this section shall require an agency providing the information required under this section to disclose any confidential information that would link the data to the individual to whom it pertains.

(c) A statistical abstract of data compiled under subdivision (b) shall be provided by the agency to the Legislature and to each of the Senate and Assembly Select Committees on Small Business Enterprise on an annual basis thereafter.

SEC. 51. Section 15333 of the Government Code is amended to read:

15333. The Office of Business Development shall perform the following functions and activities:

(a) Represent the Secretary of the Trade and Commerce Agency in establishing clear lines of communication with California business.

(b) Advise the secretary on the problems and concerns of the business community, particularly those unique to California's small businesses.

(c) Review recommendations from the business community and advise the secretary on proposals affecting business conditions in California.

(d) Act as liaison between the business community and all departments of state government on issues affecting business development and insure that the findings and recommendations of each department are reported to the secretary.

(e) Cooperate with public and private agencies engaged in promoting and encouraging the location and development of new businesses in the state as well as the maintaining and expanding of existing businesses.

(f) Aid business concerns in their relationships with appropriate federal and state agencies such as procurement and lending agencies and the Small Business Administration.

(g) Market California as a cost-effective and advantageous place for businesses to locate or expand. This subdivision shall not be construed to require any local government to participate, except in a voluntary manner, in this program.

This section shall become operative on January 1, 1992.

SEC. 52. Section 15333.6 of the Government Code is amended to read:

15333.6. (a) There is within the agency the Competitive

Technology Advisory Committee, which shall not exceed 18 members. The Speaker of the Assembly and the Senate Committee on Rules shall each appoint three members. The Governor shall appoint the remaining members of the committee upon nomination by the secretary and shall appoint one member as chair. All members of the committee shall be California residents with an advanced level of education or experience in science or technology obtained through service in higher education, research laboratories, or the private sector. Included in the committee shall be representatives from the University of California, the California State University, the independent colleges and universities in California, and federal laboratories. A majority of the members of the committee shall represent the private sector. All members of the committee shall serve for a two-year term.

(b) Each committee member shall serve without compensation but may be reimbursed for actual and necessary travel expenses incurred in the performance of duties. No member shall, by virtue of serving as a member of the committee, be deemed to be an officer of the state.

(c) The committee shall advise the agency regarding the following:

(1) Establishing priorities for the California Competitive Technology Program pursuant to Chapter 3.5 (commencing with Section 15379), taking into account the technological problems faced by California companies and competitive challenges facing the economy of this state.

(2) Scientific and technological expertise pursuant to Section 15379.8.

(3) The California Competitive Technology Program as needed and upon request of the agency.

(d) Staff for the committee shall be supplied by the agency and records of the council shall be maintained by the agency.

SEC. 53. Section 15334 of the Government Code is amended to read:

15334. The Office of Tourism shall perform the following functions and activities:

(a) Develop data on numbers of visitors, expenditures by visitors, points of origin and destination, and other relevant information on tourism and visitors.

(b) Provide advice and technical assistance to regional, county and city tourism development organizations and to similar private organizations in planning programs to attract visitors and develop literature for distribution to visitors and potential visitors to this state.

(c) Prepare literature suitable for distribution by the agency and by regional, county and city tourism development organizations to persons requesting the literature. It shall provide information which will enable visitors to contact tourism organizations in areas which they plan to visit. A fee may be charged for these publications to cover the cost of publication and dissemination.

(d) Prepare material for distribution to other countries through the United States Travel Service.

(e) Assist and submit recommendations to other state departments and agencies in providing facilities and services which will promote and facilitate the travel of visitors throughout the state.

SEC. 54. Section 15334.2 of the Government Code is amended to read:

15334.2. There is in the Office of Tourism the position of Rural Tourism Liaison, who shall provide, among other responsibilities as determined by the office, liaison services between local rural tourism agencies and the office, and who shall act as an advocate for rural tourism needs within the office. The secretary of the agency may fill this position from the existing staff allocation.

SEC. 55. Section 15335.07 of the Government Code is amended to read:

15335.07. The Governor may appoint, upon the recommendation of the secretary of the agency, the director of the office. A recommendation shall be selected from a list of three candidates submitted by the Small Business Development Board, as described in Sections 14020, 14021, and 14022 of the Corporations Code. The director of the office shall receive a salary as shall be fixed by the secretary of the agency with the approval of the Department of Personnel Administration. The director shall be in charge of the Office of Small Business under the direction of the secretary of the agency, consistent with duties as set forth in this part. The director may be dismissed by the secretary of the agency.

SEC. 56. Section 15335.09 of the Government Code is amended to read:

15335.09. The director, following notification to the secretary, may do all of the following:

(a) Appoint such advisory groups as may be necessary to carry out his or her powers and duties. These persons may be reimbursed per diem and travel expenses pursuant to state regulations.

(b) Call upon and reimburse for services any state agency or department for assistance in carrying out the Office of Small Business's objectives.

(c) Participate with government or private industry in programs for technical assistance, loans, technology transfer or any other programs related to this part and Part 5 (commencing with Section 14000) of Division 3 of Title 1 of the Corporations Code.

(d) Exercise such other powers as may be necessary to carry out the purposes of this part and Part 5 (commencing with Section 14000) of Division 3 of Title 1 of the Corporations Code.

SEC. 57. Section 15335.11 of the Government Code is amended to read:

15335.11. The Office of Small Business shall include in the agency's report to the Legislature and to the Governor, as required by subdivision (e) of Section 15323, the steps which have been taken to fulfill the purpose of this part and Part 5 (commencing with

Section 14000) of Division 3 of Title 1 of the Corporations Code, which report shall describe:

(a) Action taken to encourage the formation of small business, urban and rural, development corporations.

(b) Evaluation of corporations formed under this part, including the most recent annual financial statements of each corporation.

(c) The number of businesses financially assisted through small business and employment-incentive loans, and the number of jobs created or retained through employment-incentive loans made pursuant to this part and Part 5 (commencing with Section 14000) of Division 3 of Title 1 of the Corporations Code.

(d) The number of persons requesting information and attending conferences cosponsored by the office, and the total number of publications issued or sold under this part and Part 5 (commencing with Section 14000) of Division 3 of Title 1 of the Corporations Code.

(e) Recommendations for action by the Governor and the Legislature to carry out the purposes of this part and Part 5 (commencing with Section 14000) of Division 3 of Title 1 of the Corporations Code.

SEC. 58. Section 15335.13 of the Government Code is amended to read:

15335.13. To the extent permitted by the resources allocated to the office, the office may, in the manner the director determines fair and reasonable, provide to small businesses in this state qualifying under any of the programs under the jurisdiction of the office, all of the following:

(a) Financial assistance in the form of loan and loan guarantees through the California small business development corporations.

(b) Management and technical assistance.

(c) Public relations services.

(d) Representation of their interests before Congress, the Legislature, and state and federal agencies. State agencies shall cooperate and respond to inquiries of the office when it represents the interests of small businesses.

(e) Planning and research functions.

(f) In providing services and assistance under subdivisions (a) to (e), inclusive, the office may charge fees for workshops and seminars only, in an amount not to exceed the actual costs of providing the workshops and seminars.

SEC. 59. Section 15335.20 of the Government Code is amended to read:

15335.20. There is within the agency, the California Film Commission established pursuant to Section 14998.2.

SEC. 60. Section 15335.22 of the Government Code is amended to read:

15335.22. (a) (1) The California Film Commission shall develop and oversee the implementation of a Cooperative Motion Picture Marketing Plan. The plan shall increase the marketing efforts of the commission, and offer state resources to local film commissions and

local government liaisons to the film industry for the purpose of marketing their locales to the motion picture industry.

(2) In addition to paragraph (1), the resources offered under the plan for marketing shall be used to recruit local government participation in, and development of, local film commissions.

(3) For purposes of this section, resources offered to local film commissions and local government liaisons to the motion picture industry shall include all of the following:

(A) Grants for partial or full funding of the cost to develop or participate in workshops, trade shows, seminars, or meetings that assist local governments to promote and market the use of their locales by the motion picture industry. Eligible meetings shall also include those called or approved by the Director of the Film Office to further the purposes of the Cooperative Motion Picture Marketing Plan.

(B) The services of a professional photographer, including material and expenses, to take still photographs of motion picture locations for inclusion in the location resource library established pursuant to Section 15335.21. Whenever possible, the photographer shall be hired from the local area participating in the Cooperative Motion Picture Marketing Plan.

(C) Appropriate promotional and informational materials for the purpose of mailing or distributing to the motion picture industry. The materials shall include, but not be limited to, brochures, print ads, and direct marketing materials which state the benefits and advantages of producing motion pictures within the state or the locales participating in the Cooperative Motion Picture Marketing Plan.

(b) Any resource requested under the provisions of the Cooperative Motion Picture Marketing Plan not specified in this section shall be subject to the approval of the California Film Commission.

(c) The California Film Commission shall expand and upgrade the location resource library through the use of a librarian, a computerized catalog system, and a professional photographer.

(d) As a condition of eligibility for the use of resources pursuant to this section, a local government shall demonstrate substantial compliance with the model process for granting film permits described in Section 14999.20.

(e) The commission shall adopt additional guidelines as needed for the implementation of the plan.

(f) The purpose of the Cooperative Motion Picture Marketing Plan is in no way to discourage, limit, or impede the participation of local governments in the Film Liaisons in California, Statewide, commonly referred to as F.L.I.C.S.

(g) As used in this section, "motion picture" shall include, but not be limited to, production in film, video, television, commercial, and still photography.

SEC. 61. Section 15336 of the Government Code is amended to

read:

15336. The agency may contract with other state or private agencies, universities, firms, or individuals for the performance of technical or specialized work or for services such as econometric models, data bases, and other similar services.

SEC. 62. Section 15336.3 of the Government Code is repealed.

SEC. 63. Section 15337 of the Government Code is amended to read:

15337. (a) As one means to carry out the agency's purposes of job creation and business development through the tourism and industrial development marketing programs, there is hereby created in the State Treasury, the Commerce Marketing Fund.

(b) The Treasurer shall invest moneys contained in the Commerce Marketing Fund not needed to meet current obligations in the same manner as other public funds are invested. Interest which accrues from the investments shall be credited to the fund.

(c) Proceeds which accrue to the state from the merchandising of tourism and industrial development ideas, products, and designs, including written material, shall be deposited in the fund.

(d) The agency may receive and accept for deposit in the Commerce Marketing Fund, moneys from any and all public or private sources which are for tourism and industrial development purposes.

(e) Moneys in the Commerce Marketing Fund shall be available for expenditure by the agency, upon appropriation by the Legislature, for activities performed consistent with Article 4.5 (commencing with Section 15355) and activities performed consistent with Chapter 1.6 (commencing with Section 15364.50).

SEC. 64. Section 15338 of the Government Code is amended to read:

15338. All public agencies in the exercise of their statutory responsibilities shall consider, when relevant, the policies of this chapter and specific recommendations or comments made by the agency pursuant to its authority granted by this chapter.

SEC. 65. Section 15339 of the Government Code is amended to read:

15339. The agency, with the approval of the Department of General Services, may sell real property acquired by the agency in a foreclosure, by deed in lieu of foreclosure, judgment, or sale under a power of sale on a deed of trust, lien, or by exercise of any other security interest on real property securing repayment of a loan or performance under a grant or loan made by the agency. Notwithstanding any other provision of law, real property so acquired shall be sold for its market value and the sale proceeds shall be deposited in the fund from which the secured loan or grant was made.

The sales shall be conducted on behalf of the agency by the Department of General Services, except that the agency, with the approval of the Department of General Services, may conduct the

sale, utilize the assistance of any local public agency, or contract with a real estate broker to conduct the sale, if the agency determines that one of those options will result in a more prompt or cost-efficient sale.

SEC. 66. Section 15339.29 of the Government Code is amended to read:

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 agency on or before March 30, 1993.

SEC. 66.5. Section 15339.30 of the Government Code is amended to read:

15339.30. To accomplish the purposes of this article, the secretary 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. 67. Section 15341 of the Government Code is amended to read:

15341. There is hereby established in the agency the Economic Adjustment Unit. The primary role of the unit shall be to save California jobs and serve business, labor, and communities by averting plant closures, and where closures are unavoidable, to assist in creating new jobs for the dislocated workers.

SEC. 68. Section 15345 of the Government Code is amended to read:

15345. The following definitions govern construction of this article:

(a) "Data base" means a collection of data that is organized, stored, and available for access.

(b) "Network" means a coordinated system allowing users to share access to data and other information.

SEC. 69. Section 15345.1 of the Government Code is amended to read:

15345.1. The agency shall initiate a contract for a manufacturing competitiveness network planning study, by January 1, 1993, contingent upon the receipt of nonstate public and private funding specified under Section 15345.5. The agency shall serve as contract manager, in consultation with the planning project partners specified in Section 15345.2. The study model shall include all of the following:

(a) An assessment of the costs and feasibility of establishing an

effective information network and data base for the following purposes:

(1) Identification of California manufacturing firms experiencing competitiveness pressures leading to planned relocations outside of the state or region.

(2) Responses to planned relocations of this state's manufacturing firms, including small businesses and minority- and women-owned manufacturing firms, to other regions, states, or countries through full utilization of available economic development resources within both the private and public sectors.

(3) Identification of industry trends, by industrial sector and geographic location, in order to assess competitiveness in the state's business environment.

(4) Identification of industries migrating to California.

(5) Establishment of a mechanism for coordination and cooperation among economic development resource providers in order to facilitate early warning on company relocation plans.

(b) An evaluation of the need for data-specific information regarding California manufacturing relocations.

(c) An evaluation of the availability of, and access to, data from state, regional, and local sources.

(d) An inventory of studies and other information currently available regarding California's business climate.

(e) A feasible system and structure to allow access of shared data and other information among users concerning California manufacturers, as specified in Section 15345.4.

SEC. 70. Section 15345.2 of the Government Code is amended to read:

15345.2. (a) In conducting the study specified in Section 15345.1, the secretary shall identify appropriate planning project partners among entities that may contribute to the acquisition of information relevant to the proposed data base and network. Planning project partners may include, but shall not be limited to, the following:

(1) California utilities.

(2) Chambers of commerce.

(3) Local economic development organizations.

(4) California manufacturing associations.

(5) Small business manufacturing enterprises.

(6) Large business manufacturing enterprises.

(7) Organized labor.

(8) California community colleges and universities.

(9) The Employment Development Department.

(10) The Franchise Tax Board.

(b) In gathering required information, the secretary may utilize plant closure information provided through the federal Worker Adjustment and Retraining Notification Act (29 U.S.C. Sec. 2101 and following) and employment data provided through the Employment Development Department's Labor Market Information Survey, as well as market research, site inventory analysis, survey instruments,

and other appropriate data gathering strategies.

SEC. 71. Section 15345.3 of the Government Code is amended to read:

15345.3. Not later than October 1, 1993, the secretary shall report study findings and recommendations to the Governor and the Legislature.

SEC. 72. Section 15345.4 of the Government Code is amended to read:

15345.4. (a) Pursuant to recommendations contained in the study, and contingent upon an annual appropriation by the Legislature, the secretary shall establish, not later than April 1, 1994, an information network and data base that would utilize regional data collection resources to provide nonconfidential information that may include, but shall not be limited to, the following components:

(1) Type of business, industry sector, defense, or commercial production.

(2) Size of business, number of employees, and value of production.

(3) Corporate structure, parent company, division, and group.

(4) Business mix of domestic and international sales.

(5) Reasons for planned relocation or restrictions against instate expansion including regulatory issues, tax issues, housing and facilities costs, employment costs, labor pool, support from local and state agencies or officials, quality and quantity of public services, infrastructure issues, and state and local business incentives.

(6) Employment training needs of California's manufacturing industries.

(b) The network shall be designed to provide accessibility of information to users for the purpose of increasing knowledge of, and access to, state and regional business retention and economic development resources.

(c) The network shall also track corporate decisions to restrict instate expansions of California manufacturing enterprises.

(d) The network shall provide an early warning system for effective business retention, including a mechanism for facilitating rapid response to business concerns that may be mitigated by the state through technical assistance, incentives, job training resources, and loan packaging or other capital formation tools.

(e) The network shall be designed to provide an information resource that may be used to assist the state in developing new programs and incentives designed to retain manufacturing industries and attract new business including, but not limited to, the following:

(1) Specific programs that may be expanded or initiated to assist industry, in both rural and urban locations, to maintain a competitive position within the context of the existing regulatory climate.

(2) Technology development programs to effectively utilize the educational and scientific infrastructure of the state.

(3) Policy recommendations regarding legislative and regulatory

issues affecting manufacturing.

SEC. 73. Section 15347 of the Government Code is repealed.

SEC. 74. Section 15348 of the Government Code is repealed.

SEC. 75. Section 15349 of the Government Code is repealed.

SEC. 76. Section 15350 of the Government Code is amended to read:

15350. An advisory council not to exceed 21 persons shall be created to advise the secretary in carrying out the functions of the agency. One member of the council shall be appointed by the chairman of the Commission for Economic Development. The other members of the advisory council shall be appointed by the Governor upon the nomination of the secretary. The terms of appointees shall expire two years after the expiration date of the previous appointment to that position. The chairman of the advisory council shall be designated by the Governor from the members appointed by him or her.

SEC. 77. Section 15350.1 of the Government Code is amended to read:

15350.1. If any of the initial members of the council have not been nominated by the secretary or appointed by the Governor by June 30, 1978, the Senate Rules Committee and the Speaker of the Assembly shall each appoint persons to one-half of the vacancies on the council (with the Senate Rules Committee to make the appointment to any odd-numbered vacancy) and the Governor shall have no authority after June 30, 1978, to appoint any initial member to the council.

SEC. 78. Section 15353 of the Government Code is amended to read:

15353. The council shall meet at 10 o'clock in the morning on the first Monday of February, May, August and November in the office of the agency in Sacramento, unless the council or the chairman shall set a different time, day or place. The chairman may also call special meetings, setting the day, time and place thereof, on not less than seven days written notice to all members and to the secretary. Those members present at any regular or duly noticed special meeting shall constitute a quorum to transacting business.

SEC. 79. Section 15354 of the Government Code is amended to read:

15354. Staff for the council shall be supplied by the agency and records of the council shall be maintained by the agency.

SEC. 79.3. Section 15355.7 of the Government Code is amended to read:

15355.7. (a) No funds expended by the agency for the industrial marketing program shall be used to publicize or feature any elected official or political party in paid advertising.

(b) Media advertisements and publications prepared or purchased with agency funds shall equally present the contributions of the executive and legislative branches of state government to the fostering of a positive state business climate if either branch is

mentioned.

(c) The agency shall be authorized to fund the marketing program from all sources, both public and private, to accomplish the goals of this article.

(d) The agency shall be authorized to enter into cooperative or shared cost programs, or opportunities for these ventures, with private entities.

SEC. 79.5. Section 15355.9 of the Government Code is repealed.

SEC. 80. Section 15360 of the Government Code is repealed.

SEC. 81. Section 15361 of the Government Code is repealed.

SEC. 82. Section 15362 of the Government Code is repealed.

SEC. 83. Section 15363 of the Government Code is repealed.

SEC. 84. Section 15363.5 of the Government Code is amended and renumbered to read:

15311. The Trade and Commerce Agency consists of the California State World Trade Commission and the Department of Commerce. The agency is administered by the Secretary of Trade and Commerce who shall be appointed by the Governor with the advice and consent of the Senate, and who shall be paid a salary at the amount prescribed under Section 11550.

SEC. 85. Section 15363.6 of the Government Code is amended and renumbered to read:

15312. The secretary shall have the following responsibilities:

(a) Coordinating the various trade, investment, and tourism activities of the agency to ensure that the resources that the state has invested in these programs are used effectively and efficiently and that they foster the state's reputation as a source of high quality, cost-effective goods and services including tourism destinations.

(b) Coordinating the use of the overseas trade offices by any state export program not under the agency, such as those that are operated by the Department of Food and Agriculture and the California Energy Commission, and by any state agency which may have occasion to need the services of the overseas trade offices in carrying out that agency's official duties and responsibilities.

(c) Reporting to the Governor and the Legislature on an annual basis about the policies, plans, budgeting, and accomplishments of the agency and its programs.

(d) In his or her capacity as a member of the Governor's cabinet, coordinating the development of a state policy on economic development and trade. The initial policy and implementation strategy shall be included as a part of the secretary's first annual report to the Governor and the Legislature following enactment of this chapter. Each year thereafter, the secretary's annual report shall discuss economic development and trade policies including accomplishments and needed modifications.

(e) Serve as the Governor's principal staff adviser on economic development.

(f) Serve as executive director of the state economic development regional commission as designated by the Secretary of the United

States Department of Commerce pursuant to Title V of the Public Works and Economic Development Act of 1965, as amended.

(g) Advise the Governor and the Legislature on the problems, recommendations, and concerns of the business community, including the impact of governmental policies and regulations and the expected impact of proposed policies and regulations which may adversely affect beneficial economic development.

(h) Perform all duties, exercise all powers, discharge all responsibilities, and administer and enforce all laws, rules, and regulations under the jurisdiction of the agency.

(i) Keep all books and records necessary for the proper and efficient administration of the agency.

(j) Provide technical, financial, marketing, and management assistance to minority-owned, women-owned, and disabled veteran-owned businesses to assist these businesses in competing for contracts, grants, and projects related to defense conversion and strategic technology.

SEC. 86. Section 15363.7 of the Government Code is amended and renumbered to read:

15313. It is the intent of the Legislature in enacting this chapter that the duties of the Business Transportation and Housing Agency regarding the California State World Trade Commission and the Department of Commerce be transferred to the Trade and Commerce Agency. Any reference in this code to duties of the Business, Transportation and Housing Agency with regard to the department and office shall be deemed to mean the Trade and Commerce Agency.

SEC. 87. Section 15363.8 of the Government Code is amended and renumbered to read:

15314. (a) The agency shall be funded from the existing resources of other state agencies and departments. The Governor may direct the transfer of personnel from other agencies and departments for agency operations.

(b) The provisions of Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 shall apply to the agency, and the secretary is the head of the agency within the meaning of those provisions.

(c) The agency is the successor to the Department of Commerce.

SEC. 88. Section 15364.1 of the Government Code is amended and renumbered to read:

15315. (a) The Legislature finds and declares that the expansion of international trade is vital to the overall growth of California's economy. The Legislature further finds and declares that current state efforts to develop relations with foreign countries are insufficient for effective coordination and mobilization of the resources necessary to promote economic growth and international trade.

(b) In order to encourage international trade and development, there is created in the Trade and Commerce Agency the California

State World Trade Commission. It shall be comprised of leading representatives of California government and private industry, and shall address policies that affect California's ability to trade internationally, and provide research in international trade that can be utilized by the commission in developing and implementing effective and aggressive marketing strategies. "Commission" as used in this chapter, means the California State World Trade Commission. "International trade" as used in this chapter, consists of the export and import of agricultural, mineral, and manufacturing products, business services, and banking.

(c) In addition, the commission may create an advisory council comprised of commission-appointed private industry leaders and representatives of the executive and legislative branches of state government. They shall have the responsibility of assisting and advising the commission. Advisory council members shall receive travel and other expenses equal to those of state employees when on authorized commission business.

SEC. 89. Section 15364.4 of the Government Code is amended to read:

15364.4. (a) Each office of the commission, including any overseas trade office, shall be in the charge of an office director who shall be appointed, upon the recommendation of the director of the commission, by the Governor, unless otherwise specified. The office directors shall hold office at the pleasure of the director and shall receive a salary as fixed by the director with the approval of the Department of Personnel Administration.

(b) All employees of the California State World Trade Commission, as created in the Governor's office by Chapter 1387 of the Statutes of 1986, who, on the operative date of this section, are serving on the commission staff, other than as temporary employees, shall be transferred to the California State World Trade Commission established in the Trade and Commerce Agency. In accordance with Section 19050.9, the status, positions, and rights of these persons shall not be affected by the transfer, and, except as to positions exempt from civil service, they shall be subject to state civil service.

(c) The State Personal Board shall authorize temporary appointment authority under Section 5 of Article VII of the California Constitution and Section 19059, and shall conduct examinations necessary to accomplish the prompt filling of employee positions in the California World Trade Commission. All persons employed by the California World Trade Commission on January 1, 1993, may participate in departmental promotional examinations for the California World Trade Commission for a period of one year following the enactment of this legislation.

SEC. 90. Section 15364.8 of the Government Code is amended to read:

15364.8. (a) There is hereby established the California State World Trade Commission Fund in the State Treasury, moneys for which shall be appropriated in the annual Budget Act. The fund shall

consist also of private sector moneys as may be made available; federal funds, when available; state funds; and fees for services rendered, if levied.

The Controller shall disburse such moneys as is available in the fund, upon the request of the agency.

(b) The agency shall submit an annual budget, for inclusion in the Governor's Budget, showing funding from all sources.

(c) The agency shall have access to information and reports developed and maintained by state offices and departments pursuant to the State Records Management Act (Chapter 5 (commencing with Section 14740) of Part 5.5).

SEC. 91. Section 15364.20 of the Government Code is amended to read:

15364.20. There is hereby created in the California State World Trade Commission the Global Applied Technology Extension Service (GATES) to be headed by a manager or director designated by, and reporting to, the Director of the California State World Trade Commission.

SEC. 92. Section 15364.21 of the Government Code is amended to read:

15364.21. The service shall do all of the following consistent with federal law and national and state policy:

(a) Consult with and coordinate all state government agencies with duties pertaining to international matters, including, but not limited to, the California State World Trade Commission, the State Offices of Trade and Investment, the State Energy Resources Conservation and Development Commission, and the Department of Food and Agriculture, in order to implement the provisions of this article.

(b) Promote rapid global commercialization of California products and technologies by identifying and developing product and capital market linkages between California universities and colleges (including community colleges), private sector entities engaged in public/private partnerships with these universities and colleges, and their global private and public counterparts.

(c) Contribute to the development of immediate and long-term policy strategies, in close consultation with the California Council on Science and Technology, the President of the University of California, the Chancellor of the California Community Colleges, and the Chancellor of the California State University, with attention to stimulating California's economy towards meeting economic adjustment needs and fulfilling California's yet untapped potential in the six areas of economic development as follows:

(1) Employment generation.
(2) Education and human resource development.
(3) Export development.
(4) Environmental remediation and preservation.
(5) Entrepreneurship.
(6) Equal access to knowledge.

(d) Facilitate global market access for California enterprises by studying the feasibility of, and coordinating the development of, a statewide interactive electronic data base and network utilizing appropriate technologies such as CD-ROM (compact disk-read only memory) and on-line, recording global market needs and resources identified through various state and other sources, and linking these needs with the needs and capabilities of subscribing California enterprises. In studying the feasibility of, and coordinating the development of, the data base and network, the service shall work closely with the President of the University of California, the Chancellor of the California Community Colleges, and the Chancellor of the California State University, and with other California public and private universities and colleges, state and federal government agencies, and industry, including, but not limited to, the following:

(1) The California Education Research and Federation Network headquartered at the San Diego Supercomputer Center, and affiliates, including the California Internet Federation, the Federation of American Research Networks, and the National Research and Education Network.

(2) The Automated Trade Lead System project of the California State World Trade Commission, in association with the California State University of Fresno.

(3) The Pacific Rim Commercial Exchange Project at the California State University at Sacramento.

(4) The MEMEX Institute at the California State University of Chico.

(5) The California Community Colleges ED-NET system.

(e) Promote access for California enterprises in emerging growth opportunities in developed and developing economies and assist California enterprises in benefiting from the growth of free market forces in developing nations' economies, including selected countries in Asia, Southern Africa, Central America, Latin America, the Caribbean, and Eastern Europe, by doing the following:

(1) Providing assistance and information to private enterprises in these countries, and, with the approval of the United States Secretary of State, to their governments, with the exception of the government of the Republic of South Africa.

(2) Providing support for and assisting, to the extent practicable, in soliciting private sector or other nonstate support and in-kind contributions on behalf of select teams of academicians, technical specialists, and professionals associated with California universities and colleges (including community colleges) for purposes of conducting extended stays and providing onsite technical assistance in regions and to entities indicated in paragraph (1). The service shall select teams on the merits of their ability to contribute to fulfilling the mandate of the service as stipulated in subdivisions (b) to (h), inclusive. While it is the intent of the Legislature that the selected teams be self-funding or funded by nonstate sources to the

extent possible, the service may pay for travel expenses and increases in living expenses incurred by the teams. The service may also provide members of the teams with stipends for reports to the Legislature and Governor documenting the respective teams' contributions to fulfilling the mandate of the service.

(3) Providing technical assistance and information to California enterprises, leveraging existing public resources, and utilizing existing delivery systems, including, but not limited to, technical assistance and training networks such as the California Community Colleges Economic Development Network, among others.

(4) Identifying and acting as the intermediary between foreign entities and California-based enterprises with products and services reflecting low, intermediate, and advanced technology capabilities, including, but not limited to, the following disciplines: electronics, biosciences, environmental sciences, commodity and specialty agriculture, food processing, computer hardware and software, telecommunications, and other manufacturing sectors.

(f) Facilitate the transformation of the technological infrastructure of developing countries in order to generate demand for California exports, including California-based information services and technology-based products, among other related services and products, while meeting the needs of the peoples of developing countries in their pursuit of an improved quality of life.

(g) Coordinate and focus existing public and private entities in California towards developing technological collaborations with counterparts throughout the world, with particular attention to Europe, Japan, the newly industrialized countries of Asia, Australia and nearby nations, and Canada, in addition to developing countries, in order to facilitate the export of California-based information services and technology-based products among other related services and products.

(h) Develop immediate and long-term policy strategies regarding access to global markets for information services and technology-based products, among other related services and products, with attention to stimulating California's economy towards meeting economic adjustment needs and fulfilling California's yet untapped potential in the six areas of economic development specified in subdivision (c).

SEC. 93. Section 15364.22 of the Government Code is amended to read:

15364.22. The Director of the California State World Trade Commission and the director or manager of the service shall, in consultation with the Coordinating Council for International Programs created by the Governor's Executive Order No. D84-90, issued April 5, 1990, administer the Global Applied Technology Extension Service pursuant to this article, and shall fund development efforts for purposes of creating and integrating interactive data bases and networks as provided in this article.

SEC. 94. Section 15364.23 of the Government Code is amended

to read:

15364.23. The Director of the California State World Trade Commission and the director or manager of the service shall consult with the Coordinating Council for International Programs as follows:

(a) To develop guidelines for the operation of the service including technical criteria to direct the nature of the assistance offered to private enterprises and their respective governments in accordance with subdivision (d) of Section 15364.21.

(b) Regarding disbursement of funds appropriated for purposes of the Global Applied Technology Extension Service.

SEC. 95. Section 15364.51 of the Government Code is amended to read:

15364.51. It is the intention of the Legislature in enacting this part to do all of the following:

(a) Reaffirm a commitment to the fostering of the economic activity inherent in tourism promotion as delineated as a mandate to the agency and to the Office of Tourism.

(b) To provide for an effective means of promoting and marketing the State of California as a destination for tourists on a worldwide basis, to provide the private sector with a more effective means of promoting tourism efforts and a forum for removing obstacles to overall tourism growth in order for California to remain competitive in the world tourism marketplace.

(c) Optimize the contribution of the tourism-related industries to the state's economic prosperity and to expand employment opportunities.

(d) Make the opportunity for, and benefits of, tourism in the state accessible to its residents and visitors and insure that present and future generations are afforded adequate tourism resources and attractions.

(e) Encourage the preservation and use of California historic and scenic environments to enhance the state's appeal as a destination for domestic and international tourism.

(f) Encourage California residents to take maximum advantage of travel and tourism opportunities within the State of California by enabling them to obtain accurate, timely, up-to-date travel and tourism information benefiting both urban and rural travelers in various regions of the state.

(g) Contribute to personal growth, health, education, and intercultural appreciation of the geography, history, arts, and ethnicity of the State of California.

(h) Encourage the free and welcome entry of individuals traveling to the state in order to enhance international understanding and goodwill, consistent with immigration laws, the laws protecting the public health, and laws governing the importation of goods into the United States and state law.

(i) Encourage investment in new tourism facilities and renovation of older facilities.

(j) Assist in the collection, analysis, and timely dissemination of

data which accurately measure the economic and social impact of tourism to, and within, the state in order to facilitate planning in the public and private sectors.

(k) Harmonize, to the maximum extent possible, all state activities in support of tourism and recreation with the needs of the general public, local governments, and the private sector, and to give leadership to all concerned with tourism in California.

SEC. 96. Section 15364.52 of the Government Code is amended to read:

15364.52. (a) There is hereby created in state government a California Tourism Commission, located within the Department of Commerce, which shall consist of the Secretary of Trade and Commerce who shall serve as the chairperson of the commission; the Deputy Secretary of the Office of Tourism, who shall serve as vice chairperson of the commission and nine other members appointed as follows:

(1) Five members shall be appointed by the Governor who are able persons, professionally active in the tourism industry representing diverse segments of that industry.

(2) One Member of the Senate shall be appointed by the Senate Rules Committee and one Member of the Assembly shall be appointed by the Speaker of the Assembly. These members shall be ex officio, nonvoting members of the commission.

(3) Two members, who are able persons professionally active in the tourism industry representing diverse segments of that industry, shall be appointed one each by the Senate Rules Committee and the Speaker of the Assembly.

(b) The Director of the Office of Tourism shall serve as secretary to the commission, and shall keep the minutes and records of all commission meetings and provide staff and whatever supportive services necessary to the activities of the commission.

(c) The commission shall meet quarterly and at other times and places as the chairperson may designate for the purpose of transacting the commission's business. Each commission member shall serve without compensation but shall be reimbursed for traveling and other expenses necessarily incurred in the performance of duties.

(d) The commission shall, in cooperation with the Office of Tourism, the department, and the agency, adopt, and annually update, a tourism marketing plan for the State of California which includes both domestic and international tourism promotion. The plan shall, to the extent practical and feasible, do all of the following:

(1) Serve as a guide for effectuating the California Tourism Policy Act, within available resources.

(2) Include an assessment of the activities and accomplishments of the Office of Tourism.

(3) Outline the intended program of tourism promotion and visitor service activities for the oncoming year.

(4) Delineate the ways, means, and programs by which tourism

shall be promoted, including any cost-effective marketing methods and techniques to be employed.

(5) Identify resources as are reasonably necessary, from all sources both public and private, to accomplish these promotion and marketing activities.

(6) Identify and articulate cooperative or shared cost programs, or opportunities for these ventures, with private entities.

(7) Identify licensing opportunities, including licensing agents.

(8) Contain other information, data, or recommendations which may be germane to the marketing efforts of California pursuant to the intent of this chapter.

(e) The commission, in cooperation with the Office of Tourism, may convene such committees consisting of qualified professionals and experts in various segments of the tourism industry as may be required to aid in the preparation of, or revision of, the marketing plan, or parts thereof, and as may from time to time be appropriate to further the purposes of this chapter.

(f) The commission shall work to the maximum extent practicable with those private associations, nonprofit corporations, organizations, or other private entities whose purpose includes the promotion of California tourism.

(g) Members of the California Tourism Commission and the staff of the Office of Tourism, when traveling to foreign countries or attending international travel trade shows, shall do so in cooperation with the California State World Trade Commission to preserve its ambassadorial function.

SEC. 97. Section 15364.56 of the Government Code is repealed.

SEC. 98. Section 15364.70 of the Government Code is repealed.

SEC. 100. Section 15364.72 of the Government Code is repealed.

SEC. 101. Section 15364.73 of the Government Code is repealed.

SEC. 103. Section 15364.90 of the Government Code is repealed.

SEC. 104. Section 15365 of the Government Code is amended to read:

15365. There is within the agency a California Office of Trade Policy and Research.

SEC. 105. Section 15365.2 of the Government Code is amended to read:

15365.2. The purposes of the California Office of Trade Policy and Research are the following:

(a) To support vigorous enforcement of trade laws against unfair foreign trade practices in United States markets, in the markets of offending countries, and in third-country markets.

(b) To encourage international negotiations to reduce and eliminate restrictive trade practices abroad, including quotas, tariffs, subsidies, nontariff barriers, and commercial counterfeiting.

(c) To participate in the development of international agreements which affect California's economic interests in cooperation with the Office of the United States Trade Representative.

(d) To respond to industry complaints concerning foreign trade barriers, and help represent their interests before appropriate agencies.

SEC. 106. Section 15365.8 of the Government Code is amended to read:

15365.8. The purpose of the California Office of Export Development is to strengthen the state's activities in marketing its agricultural, manufacturing, and service industries overseas. The office shall be responsible for conducting market research; disseminating trade leads; sponsoring trade delegations, missions, marts, seminars, and other appropriate promotional events. The office shall consult with the Department of Food and Agriculture on the promotion of agricultural commodities overseas.

SEC. 107. Section 15365.11 of the Government Code is repealed.

SEC. 108. Section 15365.12 of the Government Code is amended to read:

15365.12. The office shall also do all of the following:

(a) Issue a biennial report for inclusion in the commission's biennial report required by Section 15364.7. The report shall include all of the following information:

(1) A list of the trade promotional activities and events in which the office has participated and descriptions of the nature of its participation.

(2) An accounting of its financial participation in trade promotion activities.

(3) An assessment of the export sales and other benefits that have accrued to the state as a result of the state's participation in these events.

(b) Submit, at least annually, to the World Trade Commission, a proposed program of trade promotional activities and events for the office. The commission shall have approval authority over the events in which the office proposes to participate, and may appoint a subcommittee or advisory group to assist the commission in determining the approved list of trade promotion events for the office.

(c) Coordinate its trade promotional activities with the Department of Food and Agriculture and the State Energy Resources Conservation and Development Commission in order to avoid duplication of effort and to maximize the effectiveness of the state's participation in these events.

SEC. 109. Section 15365.30 of the Government Code is repealed.

SEC. 110. Section 15365.31 of the Government Code is repealed.

SEC. 111. Section 15365.32 of the Government Code is repealed.

SEC. 112. Section 15365.33 of the Government Code is repealed.

SEC. 113. Section 15365.40 of the Government Code is amended to read:

15365.40. (a) There is hereby created within the agency, the California Council to Promote Business Ownership by Women. The council shall consist of nine persons to be appointed, as follows:

(1) Seven persons shall be appointed by the Governor, one of whom shall be the secretary of the agency or his or her representative.

(2) One person shall be appointed by the Senate Committee on Rules.

(3) One person shall be appointed by the Speaker of the Assembly.

(b) The chairperson of the council shall be chosen by the members of the council.

(c) The appointing authorities shall appoint persons to the council who reflect the ethnic and cultural diversity of the state.

(d) The council shall seek private sector funding to support the council's activities.

SEC. 113.5. Section 15365.44 of the Government Code is amended to read:

15365.44. There is hereby created in the State Treasury, the California Women's Business Ownership Fund. The fund shall consist of all private money donated to further the work of the council pursuant to this chapter.

SEC. 114. Section 15367 of the Government Code is amended to read:

15367. The agency shall compile a comprehensive listing of all state licenses, permits, and registrations required of any person desiring to operate a business enterprise in California, except permits for a development project as defined in Section 65928.

The agency shall categorize the required permits, licenses, and registrations into a comprehensive handbook that is readily available to persons interested in establishing a business enterprise.

The handbook shall be as comprehensive as is practical and effective in order to provide a broad service to California citizens seeking to create or operate an enterprise which must comply with the wide range of California license, permit, and registration requirements, except in regard to permits for development projects as provided in Section 15367. To the extent possible, the handbook shall indicate state licenses, permits, or registrations required of a person interested in establishing an enterprise according to the type of enterprise.

The following information shall be indicated regarding each agency appearing in the handbook: the name of the agency; the address to which license, permit, or registration materials should be sent; and the phone number of the agency.

The handbook provided for in this section shall be completed by the agency and in use no later than July 1, 1980, and shall be updated by the agency to assure that the information provided reflects current requirements. The agency shall make the handbook available to public libraries, educational institutions, and the state and local agencies listed in the handbook.

The agency shall adopt the format for the handbook that it deems most appropriate to comply with the provisions of this chapter.

The agency shall charge a fee to cover the actual costs of publication and distribution of the handbook.

SEC. 115. Section 15371 of the Government Code is amended to read:

15371. Each state agency appearing in the handbook shall notify the agency within five days of a change in any of the information specified in the handbook.

SEC. 116. Section 15372 of the Government Code is amended to read:

15372. All state agencies shall cooperate with the agency in the compilation of license, permit, and registration requirements, and shall respond to requests by the agency for information in a timely manner.

SEC. 117. Section 15372.10 of the Government Code is amended to read:

15372.10. The Legislature expressly recognizes that it is in the state's interest to continue to register dry cleaning plants with a state agency. It is the intent of the Legislature that nothing in this chapter be construed to affect any existing statutes or regulations relating to the handling, storage, or disposal of toxic chemicals, or to impede the vesting of existing jurisdiction over dry cleaning plants by the appropriate agency of state government. The Legislature also understands that this chapter will be implemented by the agency solely as a registration requirement, and that the agency has no staff or expertise in the area of regulatory enforcement.

Further, it is the intent of the Legislature to give due consideration in the future to the enactment of a system of private industry certification as a possible alternative to complete deregulation in this field.

SEC. 118. Section 15372.11 of the Government Code is amended to read:

15372.11. As used in this chapter "dry cleaning plant" includes any premises, building, room, or establishment commonly known in the trade as a cleaning plant or cleaning and dyeing plant, equipped to perform the service of dry cleaning by immersion and agitation, or immersion only, in a volatile, commercially moisture-free solvent, and including self-service or coin-operated equipment in whole or in part.

SEC. 119. Section 15372.13 of the Government Code is amended to read:

15372.13. (a) A registration issued under this chapter expires two years from the date of issuance. To renew a registration, the registrant shall, on or before the date on which the registration would otherwise expire, apply for renewal on a form prescribed by the agency, and pay the prescribed renewal fee. If the registration is not renewed before its expiration, a delinquency fee may be added to the renewal fee. The delinquency fee shall be fifty dollars ($50).

(b) The agency shall establish registration periods and renewal dates for registrations issued under this chapter in such manner as

best to distribute the renewal work throughout each year and permit the most efficient and economical use of personnel and equipment. To the extent practicable, provision shall be made for the proration of other adjustment of fees.

SEC. 120. Section 15372.15 of the Government Code is amended to read:

15372.15. The agency is responsible solely for the maintenance and compilation of the registration list pursuant to Section 15372.12. The agency shall not be responsible for responding to consumer complaints or disputes related to dry cleaning operations.

SEC. 121. Section 15372.16 of the Government Code is amended to read:

15372.16. (a) The agency shall require that all registrants maintain a surety bond in the sum of five thousand dollars ($5,000) or post security in the form of a bearer bond issued by the United States or the State of California in the amount of five thousand dollars ($5,000) or post five thousand dollars ($5,000) in cash, unless, after a determination as hereinafter provided, the bond or security is waived. A surety bond shall be duly executed by an admitted surety insurer, shall be continuous in form, shall be in favor of the people of the State of California, and the total aggregate liability on the bond shall in no event exceed the face amount thereof.

The surety bond shall be conditioned that the principal shall and will be liable for fraud and for all claims for damaged articles of clothing of persons with whom the registrant may deal as a registrant.

(b) Payments which are to be made from any security or pursuant to any bond which is required by this section shall be limited to payments of claims which have been approved by the final decision of a court.

(c) Any person injured by the breach of any condition, for which the bond is given to secure, shall have a cause of action upon the bond in any court of competent jurisdiction to recover his or her damages not in excess of two hundred fifty dollars ($250) suffered by reason of that breach. The aggregate liability of the surety to all such persons shall not, however, exceed the sum of the bond.

(d) Bonds pursuant to this chapter shall remain in full force and effect until the surety has terminated future liability by 30-day written notice to the agency.

(e) In lieu of furnishing the bond required by this section, licensees may deposit with the agency a bearer bond or bearer bonds having a market value of five thousand dollars ($5,000) or more, and the deposit shall be permitted to receive annually any interest payable on such bond.

(f) The agency shall waive the filing of the security or bond upon application and proof, as evidenced by a financial statement certified by a certified public accountant, that a third party has a net worth of at least one hundred thousand dollars ($100,000) and that the registrant's financial responsibility is guaranteed by that third party.

The guaranty shall be on a form provided by the agency.

SEC. 122. Section 15372.17 of the Government Code is amended to read:

15372.17. The agency may require the submission of any other additional information deemed necessary for registration. Additional registration information may include, but is not limited to, written certification to ensure compliance with the surety bond requirement, the types of chemicals used in all processes of the plant, and the current methods used by the plant for treatment or disposal of these chemicals.

SEC. 123. Section 15372.18 of the Government Code is amended to read:

15372.18. A registration issued under this chapter shall not be transferable to any other person or entity. A registration ceases to be valid upon change of ownership, change of corporate officers, or change of business location, in which event a new registration and fee shall be filed with the agency. All information provided on the registration form shall be subject to the provisions of the Public Records Act (Chapter 3.5 (commencing with Section 6250) of the Division 7 of Title 1 of the Government Code).

SEC. 124. Section 15372.19 of the Government Code is amended to read:

15372.19. The secretary shall, by regulation, fix the registration and biennial renewal fees in an amount not less than twenty-five dollars ($25) nor more than seventy-five dollars ($75). The fees shall be fixed in an amount sufficient to cover the costs of administering the registration requirements of this chapter, the actual cost of developing and maintaining a registration list, as well as the promotion of environmental and business loan programs and technical assistance programs related to this industry. All funds remaining in the Dry Cleaning Account in the Bureau of Home Furnishings Fund on January 1, 1993, shall be transferred to the Dry Cleaning Fund within the agency, which is hereby created. All fees collected by the agency pursuant to this chapter shall be deposited in the Dry Cleaning Fund, and shall be used solely by the agency for program support. Notwithstanding Section 13340, all moneys in the Dry Cleaning Fund are continuously appropriated to the agency for carrying out this chapter.

SEC. 125. Section 15372.21 of the Government Code is amended to read:

15372.21. The agency shall adopt regulations to implement this chapter. The agency shall adopt these regulations as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for purposes of that chapter, including Section 11349.6, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare, and notwithstanding subdivision (e) of Section 11346.1, the regulations

shall be repealed within 180 days after their effective date, unless the agency complies with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 as provided in subdivision (e) of Section 11346.1 of the Government Code.

SEC. 126. Section 15373.07 of the Government Code is amended to read:

15373.07. The agency shall adopt regulations necessary to implement and make specific Article 4.5 (commencing with Section 15373.51) and Article 5.5 (commencing with Section 15373.91) as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3, and for purposes of that chapter, including Section 11349.6, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding subdivision (e) of Section 11346.1, the regulations shall be repealed within 180 days after their effective date unless the agency complies with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 pursuant to subdivision (e) of Section 11346.1.

SEC. 127. Section 15373.1 of the Government Code is amended to read:

15373.1. Unless the context otherwise requires, the definitions in this section govern the construction of this chapter.

(a) "County" means either of the following:

(1) A county with both 200,000 or less in population according to the 1980 Federal Census and an average annual unemployment rate equal to or greater than the state's 1984 annual average unemployment rate as determined by the Employment Development Department.

(2) A county with both 600,000 or less in population according to the 1980 Federal Census and an average annual unemployment rate of 130 percent or greater than the state's 1984 annual average unemployment rate as determined by the Employment Development Department.

(b) "Fund" means the Rural Economic Development Fund.

(c) "Local agency" means any of the following:

(1) A county as defined in subdivision (a).

(2) Any city within a county as defined in subdivision (a).

(3) A county that is not defined in subdivision (a) or a city which is outside of an urbanized area as designated by the United States Bureau of the Census from the 1980 Federal Census and which is within that county.

(d) "Panel" means the Rural Economic Development Infrastructure Panel.

SEC. 128. Section 15373.2 of the Government Code is amended to read:

15373.2. (a) In order to carry out this chapter, there is hereby created in the State Treasury the Rural Economic Development Fund.

(b) The fund shall receive state funds appropriated to it, repayment of loans and interest on those loans pursuant to this chapter, interest which accrues to the moneys in the fund pursuant to subdivision (c), fees or charges pursuant to subdivision (d), and penalties prescribed by the panel.

(c) (1) The Treasurer shall invest moneys contained in the fund not needed to meet current obligations in the same manner as other public funds are invested. The moneys resulting from this investment shall be used to support the three rural small business assistance and development centers previously established through the agency and the Employment Development Department. The agency shall grant these interest moneys to the centers upon request to provide for the continued operation of the centers.

(2) If sufficient interest moneys are not available at a time when the centers require additional funds, the agency shall lend the centers necessary funds from the Rural Economic Development Fund, if the expected interest earnings from the fund will repay the loans. Funds received under this subdivision shall not be considered when the agency reviews and approves applications pursuant to Article 4 (commencing with Section 15397.3). Each center shall receive a maximum of one hundred thousand dollars ($100,000) each fiscal year.

(3) Interest earnings in excess of three hundred thousand dollars ($300,000) per fiscal year shall be available for expenditure by the agency pursuant to this chapter. The expenditures of these interest earnings in excess of three hundred thousand dollars ($300,000) shall include the costs associated with the provision of ongoing legal counsel to the Infrastructure Review Panel, created pursuant to Article 5 (commencing with Section 15373.6) and reimbursement of expenses incurred by designated panel members while in the conduct of official panel business. The interest earnings in excess of three hundred thousand dollars ($300,000) may also be used by the agency for administrative support and local assistance costs of activities consistent with the purposes of this chapter.

(4) In addition to centers specified in paragraph (1), centers which are located in a county subject to this chapter may also be funded from interest earnings in an amount not to exceed two hundred thousand dollars ($200,000) annually for all additional centers, if there are sufficient funds available after support is provided for the three existing rural centers, and after the funding of other priorities established by this chapter.

(5) If sufficient interest earnings are available after support is provided to centers specified in paragraphs (1) and (4), and to other priorities established by this chapter, an amount not to exceed seventy-five thousand dollars ($75,000) annually may be used for support of the California Main Street Program (Chapter 8 (commencing with Section 15399)). Services rendered as a result of this increased support shall be targeted for Main Street Demonstration and Self-Initiated Cities in counties subject to this

chapter.

(d) In order to defray costs to the agency for administration of Article 5 (commencing with Section 15373.6), the agency may impose reasonable charges on all applications, and approved loans. The agency may use these fees or other charges for those costs necessary to protect the state's position as a lender-creditor. These costs include, but are not limited to, foreclosure expenses, auction fees, title searches, appraisals, real estate brokerage fees, removal and storage for repossessed equipment and inventory, and additional expenditures to purchase a senior lien in foreclosure or bankruptcy proceedings.

(e) Notwithstanding Section 13340, all moneys in the fund are continuously appropriated to, and shall remain available for expenditure by, the agency for the purposes of this chapter only until July 1, 1994, and on that date any remaining funds shall revert to the Special Account for Capital Outlay.

(f) Unless deemed appropriate by the local agency, no money in the fund shall be used in lieu of any existing state infrastructure financing program, including, but not limited to, the State Transportation Improvement Program or the Clean Water Bond Program.

SEC. 129. Section 15373.25 of the Government Code is amended to read:

15373.25. The agency shall be responsible for all of the following:

(a) Providing comprehensive technical and financial assistance to rural-based local public, private, and nonprofit agencies in order to facilitate the planning and implementation of rural economic development projects.

(b) Coordinating state and federal economic development programs on behalf of rural agencies to ensure that the needs of rural California are adequately and effectively addressed. To the extent possible, the agency shall endeavor to serve as the single source for rural agencies seeking economic development assistance from the state.

(c) Administering the economic development programs established pursuant to this chapter.

(d) Serving as a clearinghouse of information on available state and federal programs which may be of assistance to improving job opportunities and general economic conditions in rural California.

(e) Report, as a part of the annual report required under subdivision (e) of Section 15323, its activities pursuant to this chapter. This report shall include a list of applications received for funding under Article 4 (commencing with Section 15373.3) and Article 5 (commencing with Section 15373.6), a list of approved applications, a summary of actual revenues and expenditures for the preceding fiscal year, and an estimate of the revenues and expenditures for the coming fiscal year. The report shall also include an evaluation of the success of the promotion and infrastructure programs including, but not limited to, information on the number

of jobs created, businesses attracted, and tax revenues generated. The report shall also include an accounting of the percentage of rural economic promotion program grants awarded under this chapter to rural tourism organizations.

SEC. 130. Section 15373.3 of the Government Code is repealed.

SEC. 131. Section 15373.4 of the Government Code is repealed.

SEC. 132. Section 15373.5 of the Government Code is repealed.

SEC. 133. Section 15373.51 of the Government Code is amended to read:

15373.51. (a) There is hereby established within the agency the Rural Economic Development Grant Program. Grants shall be made from the Rural Economic Development Fund, and in any fiscal year shall total not more than the lesser of 10 percent of the balance of the fund or seven hundred thousand dollars ($700,000).

(b) The purpose of the program is to encourage economic development, including tourism promotion and business attraction and retention activities.

(c) Eligible applicants shall be local agencies, as defined in this chapter, or other public agencies or nonprofit organizations principally involved in economic development or tourism promotion.

SEC. 134. Section 15373.52 of the Government Code is amended to read:

15373.52. (a) Eligible applicants shall submit grant proposals to the agency's Office of Local Development. The director of the office shall approve or deny all applications within 45 days after the grant application is deemed complete by the agency.

(b) Grant funds shall be used to fund projects which lead to both of the following:

(1) Retention or creation of permanent jobs.

(2) Increased local tax revenue.

SEC. 135. Section 15373.53 of the Government Code is amended to read:

15373.53. (a) Grant awards shall range from twenty thousand dollars ($20,000) to fifty thousand dollars ($50,000) and shall be awarded to applicants on a competitive basis.

(b) The highest priority shall be given to projects which lead to the most employment and tax revenue. In calculating tax revenue and employment, the agency shall take into consideration the size and economic distress of the locality.

(c) Priority shall be given to applications which accomplish one or more of the following:

(1) Effectively identify and address significant economic needs within the local economy.

(2) Facilitate a specific business development project leading to the creation of permanent private sector jobs.

(3) Support community-specific or industry-specific business retention or expansion efforts.

(4) Promote a regional business or tourism development activity.

(5) Encourage public-private cooperative efforts in economic development.

SEC. 136. Section 15373.54 of the Government Code is amended to read:

15373.54. (a) Eligible uses for grant funds shall be all of the following:

(1) Promotion and advertising of economic development and tourism.

(2) Staffing and operating costs of local economic development programs.

(3) Data collection, site inventories, and brochure development and printing.

(4) Market studies, project feasibility studies, and local economic development strategic plans.

(5) Other direct job creation and retention activities.

(b) Counties shall not use more than 15 percent of the grant for administrative costs.

(c) Grant funds shall not be expended for any of the following:

(1) Any promotional effort of activity which is derogatory or detrimental to any other area of the state.

(2) Any activity which would effect the relocation of any substantial operations of a company from one area of the state to another, or in the abandonment of any substantial operations of a company within other areas of the state.

SEC. 137. Section 15373.7 of the Government Code is amended to read:

15373.7. (a) The program shall be guided by the Rural Economic Development Infrastructure Panel, which is hereby created. The panel shall consist of the secretary, who shall serve as chairperson, the Secretary of the Business, Transportation and Housing Agency, and the Director of the Office of Local Government Affairs in the Governor's Office of Planning and Research. In addition, the panel shall consist of two public members with expertise in the economic development of rural areas. One public member shall be appointed by the Senate Rules Committee and the other shall be appointed by the Speaker of the Assembly.

(b) The panel shall do all of the following:

(1) Establish guidelines and rules to carry out the purposes of this article. This shall include establishing criteria for projects in addition to those specified in this article.

(2) Request assistance and information from any department, division, board, commission, or other agency of the state as the panel may need to carry out the purposes of this article.

(3) Prepare and promulgate regulations to carry out the purposes of this article.

(4) Adopt bylaws for the regulation of its affairs and conduct of its business.

SEC. 138. Section 15373.8 of the Government Code is amended to read:

15373.8. (a) (1) The panel shall meet regularly to conduct its business and to review and approve projects pursuant to this article for funding from the Rural Economic Development Fund. The panel shall make a decision on any application within 90 days after a local agency submits the application to the department. This financing shall be in the form of loans and grants.

(A) Loans shall be limited to a maximum of one million dollars ($1,000,000) per project. The terms of any approved loan shall be specified in a loan agreement between the local agency and the panel. Repayment of loans shall begin within nine months of the date of the loan and shall be made semiannually. Each loan shall be for a term not to exceed 15 years from the date of loan disbursement. The local agency shall pay interest at a rate specified in the loan agreement which shall not exceed 2 percent less than the rate earned by the state Surplus Money Investment Fund. Penalties, if established by the panel, shall be uniformly applied. Any loan or grant approved for a local agency shall not be considered debt within the meaning of Section 18 of Article XVI of the California Constitution.

(B) Grants shall be limited to two hundred fifty thousand dollars ($250,000) per project and shall be made only if a local agency demonstrates an inability to repay a loan or similar extraordinary circumstances. In no event shall more than 20 percent of the available moneys in the fund in any fiscal year be allocated as grants for purposes of funding projects under this section.

(2) Subject to paragraph (3), a local agency which submits an application pursuant to Section 15373.9 may, at the time the application is submitted, request the panel to approve a loan amount, term, interest rate, beginning payment, or frequency of repayment which differs from the requirements of paragraph (1). The panel may approve the request or may change and approve the request only if all of the following exist:

(A) The local agency provides sufficient documentation to the panel that the local agency or special district responsible for repaying the loan will be unable to repay a loan under the conditions specified in paragraph (1).

(B) The loan is equal to or less than one million dollars ($1,000,000) or the loan is for more than one million dollars ($1,000,000) and the local agency provides sufficient documentation of special circumstances.

(3) The panel shall not approve a loan in an amount of more than two million dollars ($2,000,000), nor shall it approve a loan which provides for an indefinite deferral of the repayment of principal and interest, or for a term for more than 50 years. The panel shall make a decision on any request made pursuant to paragraph (2) at the time the panel makes a decision on the loan application.

(b) Loans and grants may be made to a local agency for projects which meet the criteria specified in Section 15373.9, for the purpose of assisting in financing public improvements, including, but not

limited to, sewer and water facilities, streets, storm drains, bridges, and related costs, such as engineering design. Funds may be used for the development of new facilities, or the rehabilitation, alteration, expansion, or improvement of existing facilities.

(c) Preliminary design work, including a cost estimate for the project, shall be completed before a loan or grant is awarded. Costs for preliminary design work, project cost estimates, planning, preliminary engineering, and other costs necessary for preparation of the application may be reimbursed from a loan or grant, subject to approval by the panel.

(d) Any county which does not meet the definition of a county provided for under subdivision (a) of Section 15373.1 may apply for a loan or grant under this article only with respect to an unincorporated area outside of an urbanized area as designated by the United States Bureau of the Census from the 1980 Federal Census.

(e) Projects financed under this article shall meet all of the following requirements:

(1) Be associated with either an expansion, retention, relocation, or new location of an identified private sector firm. This firm shall be a manufacturing, service, research and development, production, assembly, warehousing, or industrial distribution facility. Commercial business activity, as well as tourist and recreation facilities, which are found by the panel to significantly increase permanent private sector employment and substantially improve the economic prosperity of an area may also qualify the project.

(2) Directly lead to the creation or retention of permanent private sector jobs within the applicant's jurisdictional boundaries. Projects shall also create at least one full-time job for every fifty thousand dollars ($50,000) in loan funds received except in the case of research and development facilities in which the economic job creation standard shall be set by the panel.

(f) Loans and grants may also be made, pursuant to this article and under criteria established by the agency, to local agencies in high unemployment areas to develop infrastructure for industrial parks or other sites for businesses where there is no specific business already committed to the project, when the agency determines that there is little likelihood of business expansion into the community prior to the development of the parks or sites, and that the loan or grant has a high probability of leading to the creation or retention of permanent private sector jobs within the applicant's jurisdictional boundaries. The loan or grant cannot exceed two hundred fifty thousand dollars ($250,000). Notwithstanding subparagraph (A) of paragraph (1) of subdivision (a) of this section, repayment of any loan directed towards a specific business expansion, retention, relocation, or new location shall begin when the industrial park or other development has enough occupancy to produce adequate revenues for repayment. The amount and the timing of the repayment shall be specified in the loan agreement between the

local agency and the panel.

(g) Priority shall be given to those projects which create jobs in communities with particularly high levels of unemployment and declining resource-based economics. Consideration shall be given to other community factors in awarding loans and grants, including, but not limited to, those communities which are facing local government fiscal crises, a high poverty rate, or which exhibit an active commitment to diversifying and expanding their economic base. To the extent possible, loans and grants shall be equitably distributed throughout the various rural regions of the state.

(h) Financing shall not be provided for projects which would result in increased production or availability of goods, materials, or services where sufficient capacity exists in the community to meet current and future demands.

(i) Loans or grants may not finance projects which would either affect the relocation of any substantial operations of the company from one area of the state to another, or result in the abandonment of any substantial operations of the company within other areas of the state, unless completion of the project or operation of the facility is reasonably necessary to prevent the relocation of any substantial operations of the company from an area within the state to an area outside the state.

(j) The proceeds of repayment of loan principal and the payment of interest prior to July 1, 1994, shall be deposited in the fund. The proceeds of repayment of loan principal and the payment of interest on and after July 1, 1994, shall be deposited in the Special Account for Capital Outlay.

SEC. 139. Section 15373.9 of the Government Code is amended to read:

15373.9. A local agency may submit an application to the agency for loan or grant funds pursuant to this article. A local agency may submit an application on behalf of a special district. Any application shall include information concerning the project which shall do all of the following:

(a) Demonstrate community need for economic development.

(b) Demonstrate financial need for state assistance.

(c) Demonstrate financial source of loan repayment and interest.

(d) Provide evidence of firm financial commitment on the part of the business or enterprise associated with the project.

(e) Provide evidence of site control, including any leases, easements, covenants, or encumbrances which may affect the project.

(f) Demonstrate that the applicant has the ability to administer the project and state assistance requirements.

(g) Demonstrate that the project is consistent with a city, county, or city and county general plan.

(h) Demonstrate that the project will comply with the California Environmental Quality Act as set forth in Division 13 (commencing with Section 21000) of the Public Resources Code.

SEC. 140. Section 15373.91 of the Government Code is amended to read:

15373.91. There is hereby established within the agency the Rural Revolving Loan Program.

SEC. 141. Section 15373.92 of the Government Code is amended to read:

15373.92. (a) The purpose of the program is to provide fully collateralized loans to encourage the expansion, new location, and retention of existing businesses within rural areas of the state.

(b) Eligible applicants shall be forprofit small businesses.

(c) Eligible projects shall consist of manufacturing, warehousing, or product distribution, and shall be located within the jurisdiction of a local agency.

(d) Loan funds shall only be used for any or all of the following:

(1) Acquisition of real property.

(2) Take-out financing for the construction or rehabilitation of a structure owned and occupied by the borrower.

(3) Purchase of machinery and equipment by the borrower to be used solely at the project location.

(e) The loan amounts shall range from fifty thousand dollars ($50,000) to three hundred fifty thousand dollars ($350,000). The term of the loan shall be 20 years for the financing of real property or structures, and seven years for the financing of machinery or equipment. The interest rate for loans shall be set at the rate earned by the state Surplus Money Investment Fund at the time of the loan commitment.

(f) Collateral for 20-year loans shall include, at a minimum, a deed of trust on the real property financed. Collateral for seven-year loans shall include, at a minimum, a first security interest on all equipment and machinery purchased with loan funds.

(g) Applicants must demonstrate, within two years of the date that the loan agreement is executed, that the project will result in a minimum of one full-time permanent job for every twenty-five thousand dollars ($25,000) of loan funds. The agency shall stipulate in the loan agreement that failure to meet this condition may result in the calling due of the loan.

(h) The agency may assess a loan fee. The fee shall be deposited in the Rural Revolving Loan Collection Account.

SEC. 142. Section 15373.93 of the Government Code is amended to read:

15373.93. The agency shall finance no more than one-third the cost of any project. Each borrower shall be required to pay a minimum of 10 percent of the project costs from its own funds. The remaining funds shall be provided by a financial institution chartered by a state or federal governmental entity.

SEC. 143. Section 15373.94 of the Government Code is amended to read:

15373.94. As part of the application form developed for this program, the agency shall provide a list of financial and legal

documents necessary to demonstrate the applicant's ability to repay and collateralize the loan. The agency may also request additional financial and legal documents not provided on the list from individual applicants, and the application shall not be deemed complete until the applicant has provided all additional information requested by the agency.

SEC. 144. Section 15373.95 of the Government Code is amended to read:

15373.95. (a) Loan applications reviewed by the agency shall be reviewed by a loan committee, appointed by the secretary, consisting of the Director of the Office of Local Development, an additional member from the agency, two members employed by financial institutions with expertise in evaluating loan proposals, and one local economic development professional with expertise in small business lending. This committee shall then approve or deny the loan request.

(b) Applicants shall receive a final funding decision within 45 days after the loan application is deemed complete by the agency.

SEC. 145. Section 15373.955 of the Government Code is amended 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 agency for administration of its rural revolving loan program, the agency 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 agency 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 agency may pay collection costs from the funds in the Rural Economic Development Fund.

SEC. 146. Section 15373.96 of the Government Code is amended to read:

15373.96. There is hereby established within the agency, the

Rural Emergency Assistance Housing Infrastructure Program. Under the program, grants shall be made from the Rural Economic Development Fund to "local agencies" as defined by this chapter which have received designation as federal disaster assistance areas. Grant funds shall be used for the purpose of financing public improvements (infrastructure) necessary to serve emergency or temporary housing units, the location or designation of which has been made necessary by a natural disaster.

SEC. 147. Section 15373.97 of the Government Code is amended to read:

15373.97. Eligible applicants shall submit proposals for funding to the Office of Local Development of the agency. Proposals shall specifically describe the public improvements proposed for grant funding and shall additionally include the best available estimate of costs for the improvements. Grant applications shall further include a resolution of support by the local agency's governing body.

SEC. 148. Section 15373.98 of the Government Code is amended to read:

15373.98. The Office of Local Development shall prepare a staff recommendation on all proposals and shall submit these recommendations to the secretary and the Director of the Department of Housing and Community Development. The director and secretary shall make all final funding decisions under this article. All applications for grant funding shall either be approved or denied within 30 days after an application has been found complete by the Office of Local Development.

SEC. 149. Section 15379 of the Government Code is amended to read:

15379. The Legislature finds and declares all of the following:

(a) California companies must compete in world markets against foreign manufacturers who are supported in technology development by their national governments.

(b) Companies in this state, as well as throughout the United States, are losing markets for manufactured goods, yet America has led the world in basic research.

(c) To retain California manufacturing and service jobs and maintain our industrial competitiveness, California must make use of its universities and national laboratories for solutions to technological problems. California has the benefit of unique federal laboratories, such as Lawrence Berkeley Laboratory, Lawrence Livermore National Laboratory, Jet Propulsion Laboratory, Ames Research Center, and Stanford Linear Accelerator Center, and world renowned universities such as the University of California, Stanford University, the California Institute of Technology, and the University of Southern California to draw upon for this purpose.

(d) The state should facilitate, promote, and enhance technology transfer programs which will make the unparalleled resources of our universities and national laboratories available to private industry, and ultimately into the marketplace.

(e) The state should support collaborative research projects, involving the state, academia, and private industry, which have been carefully screened and offer a likely return on the state's investment. The agency should identify and facilitate collaborative research projects which may solve critical industry and environmental problems.

SEC. 150. Section 15379.1 of the Government Code is amended to read:

15379.1. Unless the context otherwise requires, the definitions in this section govern the construction of this chapter.

(a) "Collaborative research" means technological or scientific research that accelerates existing research towards the commercialization of products, processes, and services, and is conducted jointly or funded jointly by some or all of the following:

(1) The private sector, including intra-industry groups, California-based private foundations, industry associations, and nonprofit cooperative associations.

(2) The federal government.

(3) The state.

(4) Public or private universities, colleges, and laboratories.

(b) "Program" means the California Competitive Technology Program.

(c) "Technology transfer" means the movement of the results of basic or applied technological or scientific research to the design, development, and production of new or improved products, services, or processes.

(d) "Consortia" means jointly funded or jointly operated nonprofit independent research and development organizations. "Consortia development" means the establishment of consortia to manage and fund a variety of technology transfer projects within a specific technology or industry priority.

(e) "Industry association" is a nonprofit organization with a substantial presence in California whose membership consists in whole or in part of California-based companies, and whose funding is derived in whole or in part from California-based companies.

(f) "Nonprofit cooperative association" means an association, organized and operating pursuant to either Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code or Part 2 (commencing with Section 12200) of Division 3 of Title 1 of the Corporations Code.

(g) "California-based foundation" means an organization defined in the Internal Revenue Code as a private foundation, which is incorporated in, and primarily conducts its activities within, the state and receives funding in whole or in substantial part from California-based companies.

SEC. 151. Section 15379.3 of the Government Code is amended to read:

15379.3. (a) There is within the agency the California Competitive Technology Program to provide grants to technology

transfer projects. The agency may fund a variety of technology transfer projects, including, but not limited to, the following: access to ongoing research and research findings, exchange or transfer of personnel, research support services, including capital outlay, consortia development, and collaborative research.

(b) The agency shall fund projects that include, but are not limited to, environmental improvement, energy development, advanced materials, automated manufacturing, biotechnology, optoelectronics, manufacturing technologies, medical technologies, electronics, computer science, software, robotics, and superconductivity.

(c) The agency shall award grants based upon a competitive application process addressing the project's eligibility and ability to fulfill the goals of the program. This process shall include:

(1) An eligibility screening.

(2) A proposal review which shall include a peer review of the proposal's scientific and technological aspects.

The request for application may include categories of technologies, programs, or industries for project funding. The agency shall periodically determine and update the categories of technologies, programs, and industries based upon advice from the Competitive Technology Advisory Committee. The request for application may also indicate the allocation of grant funds between the categories of technologies, programs, and industries.

(d) The agency may award grants for a multiyear period of time not to exceed five years. Funds for the second and subsequent years of a multiyear grant shall be contingent upon satisfactory completion by the grantee of the prior year grant.

(e) Grant funds awarded for consortia development projects may be used to fund third-party projects upon compliance with all of the following provisions:

(1) The projects are within one or more specified technology or industry priorities.

(2) The agency has approved the process used for selecting the projects.

(3) The entity conducting the project is a public agency or a not-for-profit or nonprofit organization.

SEC. 152. Section 15379.5 of the Government Code is amended to read:

15379.5. In awarding grants, the agency shall consider the following:

(a) The likelihood of commercialization of a product, service, or process.

(b) The potential impact on the state's economy.

(c) The cost-effectiveness of the project.

(d) The importance of state funding for the viability of the project.

(e) Cost sharing by other participants.

(f) Inclusion within the categories of technology and industries as

determined as priorities pursuant to subdivision (c) of Section 15379.3.

(g) The involvement of small businesses and minority- and women-owned businesses.

(h) Other criteria that the agency determines are consistent with the purposes of the program.

SEC. 153. Section 15379.8 of the Government Code is amended to read:

15379.8. The agency may obtain scientific and technological expertise as needed to provide advice and input on the program, the establishment of program priorities and categories, the review of grant applications, and the review of project performance.

SEC. 154. Section 15379.9 of the Government Code is amended to read:

15379.9. The agency shall adopt regulations to implement this chapter. The agency shall adopt these regulations as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1, and for purposes of that chapter, including Section 11349.6, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding subdivision (e) of Section 11346.1, the regulations shall be repealed within 180 days after their effective date, unless the agency complies with Chapter 3.5 (commencing with Section 11340) of Part 1 as provided in (e) of Section 11346.1.

SEC. 155. Section 15379.10 of the Government Code is amended to read:

15379.10. (a) Notwithstanding Sections 15379.3, 15379.4, 15379.45, and 15379.5, and the regulations implementing this chapter, the secretary may award discretionary technology transfer grants totaling not more than 5 percent or one hundred thousand dollars ($100,000), whichever is greater, of the funds appropriated each year for this program.

(b) Notwithstanding Sections 15379.3, 15379.4, 15379.45, 15379.5, and subdivision (a) of this section, the secretary may award up to 15 percent of the funds appropriated for a given fiscal year for consortia development projects which do not have private sector match but will have private sector match within six months from the date of the award of funding. For purposes of this subdivision, "private sector match" means a cash or in-kind contribution available for expenditure or use to a consortium development project. If, after six months, no private sector match is available, funding under the program shall cease and all moneys previously received shall be returned to the state.

SEC. 156. Section 15379.11 of the Government Code is amended to read:

15379.11. (a) In order to carry out the provisions of this chapter, there is hereby created in the State Treasury the California Competitive Technology Fund.

(b) The fund shall receive state funds appropriated to it, contributions from nonstate sources, reimbursements, federal funds, and interest which accrues to the moneys in the fund pursuant to subdivision (c).

(c) The Treasurer shall invest moneys contained in the fund not needed to meet current obligations in the same manner as other public funds are invested.

(d) Notwithstanding Section 13340, all moneys in the fund are continuously appropriated without regard to fiscal years to the agency for the purposes of this chapter, Sections 15333.5 and 15333.6, and for the purposes for which moneys were provided. Except for state funds appropriated to, or transferred into, the fund for local assistance, moneys in the fund, including all interest, may be spent for support.

SEC. 157. Section 15379.12 of the Government Code is amended to read:

15379.12. The agency shall report on this program in its annual report as required by subdivision (e) of Section 15323.

SEC. 158. Section 15379.13 of the Government Code is repealed.

SEC. 159. Section 15382 of the Government Code is amended to read:

15382. For the purposes of this chapter:

(a) "SBDC" means a Small Business Development Center which is the local service delivery unit.

(b) "SBDC Plan" means the plan prepared by the agency.

SEC. 160. Section 15383 of the Government Code is amended to read:

15383. (a) There is hereby created within the agency, in the Office of Small Business, a California Small Business Development Center Program which shall operate according to a statewide plan developed by the department.

The plan shall describe the objectives of the program, the purpose of the centers, the geographical distribution of the centers based on need, the services to be provided to small businesses, the timetable for the operation of the center, how services will be delivered to the small business community, budget and cost considerations, and public and private financial support.

(b) The plan shall also describe how the SBDC will provide at least all of the following:

(1) Referrals and dissemination of information regarding such topics as legal requirements for starting a business, public and private financing opportunities, local business development profiles, site inventory, and listing of professional service providers.

(2) Specialized one-on-one counseling and technical assistance in the areas of business planning and management, financing, and marketing for small business with the greatest potential for job retention and creation.

(3) Regional workshops and conferences in cooperation with the department and local "how to" workshops, courses and seminars

with local cosponsors such as community colleges, federal Minority Business Development Agency grantees, federal Small Business Administration, and Chambers of Commerce.

(4) Coordination with employee training and placement programs.

(5) Services whereby small businesses can be linked to research and development institutions for the purposes of transferring new technology to a new or expanding small business.

(6) Information on, and promotion of, small business incubators. As used in this subdivision, small business incubators means facilities that allow new small businesses to increase their probability of success by sharing needed capital equipment, services, and facilities. Information on small business incubators shall include:

(A) Methods of funding without the expenditure of state tax dollars.

(B) Other possible sources of funds.

SEC. 161. Section 15384 of the Government Code is amended to read:

15384. (a) The agency shall establish SBDCs according to the SBDC Plan.

(b) The three designated SBDCs which are funded pursuant to Section 15373.2 shall be subject to the statewide SBDC plan as described in this chapter.

(c) The services to be provided by the SBDC may be performed by independent contractors, private nonprofit corporations, public institutions, and local governments. Contracts shall be awarded on a competitive basis by a request for proposal process. Each SBDC shall include in its organization, but is not limited to, the following components:

(1) Advisory board or board of directors comprised of six or more members who will establish general policies and market the program. The board shall consist of at least one representative from each of the following groups: small business, finance, Chambers of Commerce, education, and government.

(2) Staff of the SBDC shall include a least one full-time professional business counselor and one full-time administrative assistant.

(3) Participation agreements with private individuals and firms to provide professional services either pro bono or at a reduced fee. Examples of participants include accountants, loan packagers, attorneys, business counselors, and economic development specialists.

(4) Cooperative agreements with private nonprofit corporations, public institutions, and local jurisdictions who shall coordinate services such as information dissemination, counseling and technical assistance, job training and placement, and special projects such as "how to" workshops for individuals starting businesses, technology transfer, government procurement, innovative research, and international trade.

Examples of participants include Minority Business Development Agency (MBDA) grantees, Regional Small Business Development Corporations, Small Business Administration, Service Core of Retired Executives (SCORE), California Community Colleges and State Universities, Small Business Institutes (SBI), local job training and placement agencies, California Office of Small and Minority Business, local economic development programs, redevelopment agencies, and coordinators of state enterprise zones, employment incentive areas and main street projects, and projects of the California Certified Development Corporation.

SEC. 162. Section 15385 of the Government Code is amended to read:

15385. (a) SBDC grants shall be awarded by the agency on a three-year cycle. All grantees shall be required to provide a minimum cash match of the total grant as specified in the SBDC plan. The percentage of cash match required shall be a minimum of 5 percent in the first year, not to exceed 25 percent in the third year.

(b) Extension of grants to the second and third years shall be based on the SBDC successfully meeting performance milestones during the previous funded year, as outlined in their grant contract.

(c) Grantees may be eligible to compete for a second three-year term. However, those grantees shall be required to provide a minimum of 15 percent cash match of the total grant amount each year during the second grant cycle.

(d) In order to reduce cost to the state, the agency may pursue funds from the federal Small Business Administration SBDC program.

(e) SBDCs may institute a policy for charging reasonable fees for services.

(f) SBDCs shall be required to submit quarterly progress reports to the agency.

(g) The agency may review and approve the expenditures of funds to ensure conformity with the provisions and intent of this chapter.

SEC. 163. Section 15386 of the Government Code is amended to read:

15386. The program shall have a director, who shall be appointed by the Governor upon recommendation by the secretary. The director shall hold office at the pleasure of the Governor, and shall receive a salary as shall be fixed by the secretary with the approval of the Department of Personnel Administration.

SEC. 164. Section 15387 of the Government Code is amended to read:

15387. There is hereby established the California Small Business Development Center Fund, moneys for which shall be appropriated in the annual Budget Act.

SEC. 166. Section 15392.1 of the Government Code is amended to read:

15392.1. (a) The Director of the California Export Finance

Office shall be appointed, upon consultation with the Export Finance Board and upon the recommendation of the director of the commission, by the secretary. The director shall be knowledgeable about private and public export assistance and export financing programs.

(b) The director shall serve at the pleasure of the director of the commission and shall receive a salary as fixed by the director of the commission with the approval of the Department of Personnel Administration.

(c) The director shall administer the programs of the office and perform such duties as shall be delegated by the board.

SEC. 167. Section 15394 of the Government Code is amended to read:

15394. (a) There is hereby created the California Export Finance Board in the California Export Finance Office. The board shall consist of nine members as follows:

(1) The Director of Food and Agriculture or his or her designee.

(2) The Director of the Office of Small Business or his or her designee.

(3) One appointment by the Governor. The appointee shall be knowledgeable about, and experienced in, the exporting and export finance needs of California agriculture.

(4) Two appointments from export firms, one each by the California State World Trade Commission and the Speaker of the Assembly.

(5) Two appointments from financial institutions, one each by the California State World Trade Commission and the President pro Tempore of the Senate.

(6) Two appointments by the California State World Trade Commission. The appointees shall be accomplished credit evaluation representatives experienced in analyzing financial statements (such as loan applications) and in evaluating the credit worthiness of the types of loans, loan guarantees, and firms that are likely to come before the board.

Export representatives appointed under paragraph (4) shall be experienced in exporting, knowledgeable about the needs and problems of small and entrepreneurial exporters, and actively employed with an exporting firm, export trading company, or export management company.

Financial institution representatives appointed under paragraph (5) shall be experienced in export financing, knowledgeable about the export financing needs and problems of small and entrepreneurial exporters, and actively employed with a financial institution.

(b) The appointments shall be made for two-year terms. Appointees shall serve at the pleasure of the appointing authority and vacancies shall be filled by the appointing authority.

(c) Board members who are not employees of the state shall receive the per diem authorized in Section 11564.5 for each day they

attend board meetings. In addition, they shall be reimbursed for their expenses in accordance with the rules of the Department of Personnel Administration when attending board meetings and conducting board business as determined by the board.

SEC. 168. Section 15394.1 of the Government Code is amended to read:

15394.1. The board shall do all of the following:

(a) Elect a chair and vice chair from among its members. The chair shall preside at meetings of the board.

(b) Oversee the California Export Finance Program Law, promulgate rules and regulations which are necessary to carry out the responsibilities under this chapter, particularly with respect to establishing California Export Finance Office programs to insure, coinsure, and provide loan guarantees to support export transactions prior to the expenditure of moneys from the Export Finance Fund. The board shall ensure that these programs conform to international trade agreements of the United States. The programs' rules and regulations shall be reviewed and approved by the commission prior to final adoption by the board.

(c) Adopt subsequent bylaws as are required to govern the conduct and operation of the board.

(d) Provide for the appointment of advisory groups necessary to carry out the powers and duties of the board.

(e) Hold regularly scheduled meetings, at least quarterly, in order to carry out the objectives and responsibilities of the board.

(f) Issue an annual report critiquing the program, its needs and recommended changes. The report shall include an evaluation of the program's impact on all of the following:

(1) Participation of private banks in export financing programs.

(2) Access of California firms to federal export financing programs.

(3) Export volume of California firms.

(4) Other economic and social benefits to the state.

(g) Adopt criteria establishing which exporters and export transactions shall be eligible for the insurance, coinsurance, and loan guarantees as may be extended by the board. Pursuant to this subdivision, the board shall adopt regulations to ensure that all of the following criteria are met:

(1) Borrowers have a minimum equity interest in the business as determined by the board.

(2) That loan guarantees, insurance, and coinsurance are extended exclusively to support the export of goods, services, and agricultural commodities produced or grown primarily in California by companies or agricultural enterprises which are domiciled in California as defined by subdivision (b) of Section 25120 of the Revenue and Taxation Code.

(3) That financing assistance using state funds shall only be extended in one or both of the following circumstances:

(A) As part of a state match which may be required to secure

participation of California firms or agricultural enterprises in federal, state, or private financing programs.

(B) If adequate financing assistance is not readily available from public or private sources in a timely manner.

(h) Adopt collateral or security requirements to ensure the full repayment of loan guarantees and solvency of any insurance and coinsurance program extended under this chapter and to assist in evaluating the program.

(i) Approve any and all extensions of insurance, coinsurance, or loan guarantees under this chapter.

(1) The board may elect to delegate this approval authority to a committee consisting of no fewer than three members of the board. Members of the committee shall be knowledgeable in the export financing needs of small or medium-sized businesses, agriculture, or financial institutions.

(2) In order to expedite the functions of the California Export Finance Program Law, when a loan does not exceed one hundred thousand dollars ($100,000), the board may elect to delegate this approval authority to an office loan committee. The office loan committee shall be composed of the Director of the California Export Finance Office and two others who shall be selected by, and who shall be responsible to, the board. All approvals made by the office loan committee shall be reported to, and shall be reviewed by, the board at the next regular board meeting.

(j) Consult with the Office of Small Business to ensure that the respective loan guarantee programs are not duplicative and that each program makes full use of, to the extent practicable, the resources of the other.

(k) Work to secure a delegated line of authority from the U.S. Export-Import Bank in order to take advantage of this possible new federal funding source.

(*l*) Develop a streamlined application and review process.

SEC. 169. Section 15395.4 of the Government Code is amended to read:

15395.4. The board may request the Treasurer to invest those funds in the Export Finance Fund which are not immediately encumbered by administrative or program costs, in securities issued by the Treasury of the United States government or the government of the State of California. Returns from these investments shall be deposited in the Export Finance Fund and shall be used to support loan guarantees, insurance, and coinsurance as provided by this chapter.

SEC. 170. Section 15395.5 of the Government Code is amended to read:

15395.5. Moneys in the Export Finance Fund shall be paid out by the Treasurer on warrants drawn by the Controller upon order of the board in furtherance of the purposes of this chapter, including the payment of claims under loan guarantee and insurance programs, payments for reinsurance, and payments required by state, federal,

or private export programs conducted by the board.

SEC. 171. Section 15396.2 of the Government Code is amended to read:

15396.2. The director shall submit an annual budget, as part of the agency's budget, for inclusion in the Governor's Budget, showing funding from all sources.

SEC. 172. Section 15398.3 of the Government Code is amended to read:

15398.3. (a) The corporation shall be governed by a board of directors consisting of seven members as follows:

(1) The secretary of the agency or his or her designee.

(2) The Treasurer or his or her designee.

(3) The Executive Director of the Office of Small Business or his or her designee.

(4) Two members to be appointed by the Governor as follows:

(A) One member with a minimum of three years' experience as an officer or employee of a financial institution.

(B) One member with a minimum of three years' experience as an owner or employee of a small business.

(5) One member to be appointed by the Senate Rules Committee.

(6) One member to be appointed by the Speaker of the Assembly.

(b) The terms of the Governor's initial appointees shall be two years. The terms of subsequent appointees by the Governor and all appointees by the Senate Rules Committee and the Speaker of the Assembly shall be three years. The terms shall expire on December 31. All appointees shall serve at the pleasure of the appointing authority and vacancies shall be filled by the appointing authority.

(c) Initial appointments to the board shall be made within 90 days of the operative date of this chapter.

SEC. 173. Section 15398.9 of the Government Code is amended to read:

15398.9. (a) The secretary of the agency or his or her designee shall act as the interim chair of the board of directors and shall continue in that capacity until a permanent chair is elected by the board. The interim chair shall, as soon after the operative date of this chapter as is practical, convene a meeting of the board.

(b) The board may request the Office of Small Business to provide staff support and other necessary assistance in establishing the corporation.

SEC. 174. Section 15399.1 of the Government Code is amended to read:

15399.1. (a) It is the intent of the Legislature to establish in the agency a program, the California Main Street Program, to provide technical assistance and training for small cities' government, business organizations, and merchants and property owners to accomplish community and economic revitalization and development of older central business districts and neighborhoods.

It is the further intent of the Legislature that this program shall employ the techniques developed by the National Trust of Historic

Preservation's Main Street Center which are designed to stimulate business reinvestment, restore building facades, retain existing small businesses, strengthen the local tax base, create employment opportunities, promote new businesses in downtown areas, and help to create a renewed sense of community pride. The Legislature further intends that this program be a joint state, local government, and private sector partnership utilizing private and public financial resources.

(b) It is the further intent of the Legislature to expand the California Main Street Program enacted pursuant to Chapter 1577 of the Statutes of 1985 to include assistance for commercial areas in medium-sized cities and larger urban communities.

SEC. 175. Section 15399.2 of the Government Code is amended to read:

15399.2. (a) There is hereby created within the agency a California Main Street Program which shall operate according to a plan developed by the agency with the assistance of all of the following:

(1) Organizations representing merchants and governments of small cities, historic preservation interests, financial institutions, and economic development groups.

(2) The California private industry councils.

(3) The Office of Small Business, the Office of Business Development, and the Small Business Development Center within the agency.

(4) The Office of Historic Preservation.

(5) The Department of Housing and Community Development.

(6) The chairpersons of the following committees of the Legislature:

(A) The Assembly Select Committee on Small Business.

(B) The Senate Select Committee on Small Business Enterprises.

(C) The Assembly Committee on Economic Development and New Technologies.

(D) The Joint Committee on the State's Economy.

These chairpersons shall assist in the development of the plan to the extent that their participation is not incompatible with their positions as Members of the Legislature.

(7) The California Preservation Foundation.

(b) The agency shall modify and expand the California Main Street Program plan pursuant to Chapter 1577 of the Statutes of 1985 to include program elements designed to assist merchants and residents in the neighborhoods of larger and medium-sized cities.

SEC. 176. Section 15399.4 of the Government Code is amended to read:

15399.4. In order to implement this program, the agency shall do all of the following:

(a) Contract with the National Main Street Center of the National Trust for Historic Preservation to assist in accomplishing the program's objectives, to provide technical assistance to the agency,

and to assist in developing criteria for the selection of, and aid in selecting, the participating and demonstration communities.

(b) Designate a program manager and staff.

(c) Develop objective criteria for selecting the participating and demonstration communities. The criteria shall include, but shall not be limited to, all of the following:

(1) Evidence of interest and commitment to downtown economic development and historic preservation by both the private and public sectors.

(2) Evidence of potential private investment in the downtown area.

(3) A downtown with sufficient historic fabric to become a foundation for an enhanced community image.

(4) Organization and financial commitment to implement a long-term economic revitalization program which includes a commitment to employ a full-time, professional project manager with an operating budget.

(d) Devise a method of inviting eligible communities to submit applications, select demonstration communities, and additional participating communities in subsequent years.

(e) Include in the program, in addition to the demonstration communities, any city which has on the effective date of this chapter a contract with the National Trust's Main Street Center for a local main street program.

SEC. 177. Section 15399.6 of the Government Code is amended to read:

15399.6. In order to reduce costs to the state, the agency shall include in the plan a means to solicit private contributions for state and local operations of the program.

SEC. 178. Section 15399.8 of the Government Code is amended to read:

15399.8. The agency shall include in its annual report to the Legislature a special report on the effectiveness of this program.

SEC. 179. Section 15399.10 of the Government Code is amended to read:

15399.10. (a) "Board" means the State Water Resources Control Board.

(b) "Loan applicant" means a small business which applies to the agency for a loan pursuant to this chapter.

(c) "Tank" means an underground storage tank, as defined in Section 25281 of the Health and Safety Code, used for the purpose of storing petroleum, as defined in Section 25299.21 of the Health and Safety Code.

(d) "Project tank" means one or more tanks that would be upgraded, replaced, or removed with loan funds.

SEC. 180. Section 15399.11 of the Government Code is amended to read:

15399.11. The agency shall conduct a loan program pursuant to this chapter, to assist small businesses in upgrading, replacing, or

removing tanks to meet applicable local, state, or federal standards. Loan funds may also be used for corrective actions, as defined in Section 25299.14 of the Health and Safety Code.

SEC. 181. Section 15399.12 of the Government Code is amended to read:

15399.12. The agency shall only make loan funds available to loan applicants which meet all of the following eligibility requirements:

(a) The loan applicant is a small business, as defined in subdivision (c) of Section 14837.

(b) The loan applicant owns or operates a project tank.

(c) Loan funds are not obtainable, upon reasonable terms, from private financial institutions, the Hazardous Substance Cleanup Financing Authority, the California Pollution Control Financing Authority, or any other government agency.

(d) The loan applicant demonstrates the ability to repay the loan, and the availability of adequate collateral to secure the loan.

(e) All tanks owned or operated by the loan applicant are subject to compliance with Chapter 6.7 (commencing with Section 25280) of Division 20 of the Health and Safety Code and the regulations adopted pursuant to that chapter.

(f) The loan applicant has complied, or will comply, with the financial responsibility requirements specified in Section 25299.31 of the Health and Safety Code and the regulations adopted pursuant to this section.

SEC. 182. Section 15399.13 of the Government Code is amended to read:

15399.13. A complete loan application shall include the following:

(a) Evidence of eligibility.

(b) An environmental audit, as specified in Section 5268 of Title 10 of the California Code of Regulations.

(c) Financial and legal documents necessary to demonstrate the applicant's ability to repay and provide collateral for the loan. The agency shall develop a standard list of documents required of all applicants, and may also request from individual applicants additional financial and legal documents not provided on this list.

(d) An explanation of the reasons the project tank is not in compliance with applicable local, state, or federal standards, and evidence that tanks not included in the list of project tanks are currently in compliance with applicable local, state, or federal standards.

(e) A detailed cost estimate of the tasks which are required to be completed in order for the project tanks to comply with applicable local, state, or federal standards.

(f) Any other information which the agency determines to be necessary to include in an application form.

SEC. 183. Section 15399.14 of the Government Code is amended to read:

15399.14. (a) The maximum amount the agency may loan for one project tank is fifty thousand dollars ($50,000), the minimum

amount the agency may loan an applicant is thirty thousand dollars ($30,000), and the maximum amount the agency may loan an applicant is three hundred fifty thousand dollars ($350,000). A loan applicant shall not have more than one loan, pursuant to this article, outstanding at any one time.

(b) The term of the loan is a maximum of 20 years if secured by real property, and 10 years if not secured by real property. The interest rate for loans shall be set at the rate earned by the Surplus Money Investment Fund at the time of the loan commitment.

(c) Loan funds shall not be used to finance any more than 90 percent of the costs necessary to upgrade, remove, or replace project tanks, including corrective actions, to meet applicable local, state, or federal standards.

(d) The repeal of this chapter pursuant to Section 15399.21 shall not extinguish a loan obligation and shall not impair the deed of trust or other collateral made pursuant to this chapter or the authority of the state to pursue appropriate action for collection.

(e) The agency may charge a loan fee to loan applicants of up to 2 percent of the requested loan amount. The loan fee shall be deposited in the Petroleum Financing Collection Account.

SEC. 184. Section 15399.15 of the Government Code is amended to read:

15399.15. A local agency designated pursuant to Section 25283 of the Health and Safety Code, which has jurisdiction over the project tank shall determine whether the project proposed for funding will result in the project tank meeting the applicable local, state, or federal standards. The agency shall carry out all the other requirements of this chapter.

SEC. 185. Section 15399.16 of the Government Code is amended to read:

15399.16. The agency shall adopt regulations necessary to implement and make specific this chapter as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3, and for purposes of that chapter, including Section 11349.6, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding subdivision (e) of Section 11346.1, the regulations shall be repealed 180 days after their effective date unless the agency complies with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 pursuant to subdivision (e) of Section 11346.1.

SEC. 186. Section 15399.17 of the Government Code is amended to read:

15399.17. (a) The Petroleum Underground Storage Tank Financing Account is hereby created in the General Fund. The Petroleum Underground Storage Tank Financing Account is created for both of the following purposes:

(1) Receiving federal, state, and local money.

(2) Receiving repayments of loans and interest and late fees on those accounts.

(b) The funds deposited into the account may be expended by the agency, upon appropriation by the Legislature, for making loans pursuant to this chapter.

(c) Notwithstanding Section 16305.7, all interest or other increments resulting from the investment of the funds in the Petroleum Underground Storage Tank Financing Account pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 shall be deposited in the Petroleum Underground Storage Tank Financing Account.

(d) All interest accruing on interest payments from loan applicants or interest earned on the funds in the Petroleum Underground Storage Tank Financing Account shall be deposited in a subaccount of the account.

SEC. 187. Section 15399.18 of the Government Code is amended to read:

15399.18. (a) There is hereby created, in the California Economic Development Grant and Loan Fund, the Petroleum Financing Collection Account. The Petroleum Financing Collection Account is created solely for the purpose of receiving charges, fees, and income, including, but not limited to, the charges and costs collected pursuant to subdivision (c).

(b) To defray the costs of the agency in administrating the loan program created pursuant to this chapter, the agency may do all of the following:

(1) Impose reasonable charges on all applications and impose the loan fee specified in subdivision (e) of Section 15399.14.

(2) Recover collection costs from the borrower or other party.

(3) Earn income on any asset recovered pursuant to a loan default.

(c) The agency shall deposit the charges and costs collected pursuant to subdivision (b), including the loan fees charged pursuant to subdivision (e) of Section 15399.14, in the Petroleum Financing Collection Account. Notwithstanding Section 13340, all money deposited in the Petroleum Financing Collection Account shall be continuously appropriated to the agency for those costs necessary to protect the state's position as a lender-creditor. These costs shall be broadly construed to include, but not be 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.

SEC. 188. Section 15399.20 of the Government Code is amended to read:

15399.20. (a) Except as provided in subdivision (b), the agency may, upon appropriation by the Legislature, expend an amount not more than one hundred fifty thousand dollars ($150,000) in any fiscal

year for administrative expenses in carrying out this chapter from the subaccount in the Petroleum Underground Storage Tank Financing Account specified in subdivision (d) of Section 15399.17.

(b) The agency may transfer an amount of not more than two hundred thousand dollars ($200,000) from the Petroleum Underground Storage Tank Financing Account to the Petroleum Financing Collection Account.

SEC. 189. Section 15399.21 of the Government Code is amended to read:

15399.21. (a) Except as provided in subdivision (b), this chapter shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1998, deletes or extends that date.

(b) The repeal of this chapter shall not terminate the following obligations or authorities necessary to administer the obligations until these obligations are satisfied:

(1) The payment of claims filed prior to January 1, 1998, against the Underground Storage Tank Cleanup Fund pursuant to Chapter 6.75 (commencing with Section 25299.10) of the Health and Safety Code, until the moneys in the fund are exhausted. Upon exhaustion of the Underground Storage Tank Cleanup Fund, any remaining claims shall be invalid.

(2) The repayment of loans, outstanding as of January 1, 1998, due and payable to the agency under the terms of this chapter.

(3) The resolution of any cost recovery action filed prior to January 1, 1998, pursuant to Chapter 6.75 (commencing with Section 25299.10) of the Health and Safety Code.

SEC. 190. Chapter 9 (commencing with Section 15399.30) of Division 3 of Title 2 of the Government Code is repealed.

SEC. 191. Section 15399.41 of the Government Code is amended to read:

15399.41. The sum of one million seven hundred thousand dollars ($1,700,000) is hereby appropriated from the Supercomputer Center Account which is created in the General Fund, to the agency for expenditure in the 1992–93 fiscal year for purchase of additional computer memory and capacity equipment by the University of California at San Diego to be used at the San Diego Supercomputer Center pursuant to Section 15399.40.

SEC. 191.1. Section 15399.50 is added to the Government Code, to read:

15399.50. (a) The Office of Permit Assistance is hereby created in the Trade and Commerce Agency. The office succeeds to, and is vested with, all of the duties, purposes, and responsibilities required to be performed by the Office of Planning and Research and the Office of Permit Assistance relating to permit assistance. The office shall develop guidelines to provide technical assistance to counties and cities in establishing and operating and expedited development permit process. The guidelines shall include, but not be limited to, all of the following elements of a local permit process:

SEC. 191.2. Section 15399.51 is added to the Government Code, to read:

15399.51. (a) (1) Every city, county, or city and county shall provide for coordination of review and decisionmaking and the provision of information regarding the status of all applications and permits for residential, commercial, and industrial developments, as required by the city, county, or city and county, by a single administrative entity. The city, county, or city and county may charge fees to defray costs which are directly attributable to the coordination of an application of a developer by a single administrative entity.

(2) For the purposes of this section, "administrative entity" means a person or agency designated by the legislative body of the city, county, or city and county to coordinate the review and decisionmaking and provide information regarding the status of all permits or applications required by the local agency.

(3) A city, county, or city and county may adopt, by resolution or ordinance, procedures for the implementation of this section by the designated administrative entity.

(b) (1) At the request of an applicant, the administrative entity may coordinate the review and decisionmaking process with affected special districts and the administrative entity designated by the legislative body of any other city, county, or city and county within whose jurisdiction application for approval of the development is also being made in order to provide concurrent processing within those jurisdictions.

(2) The office shall evaluate the extent to which this subdivision has resulted in an expedited development permit process and shall report its findings and conclusions to the Legislature on or before January 1, 1996.

(3) This subdivision shall have no application or effect on or after January 1, 1997.

SEC. 191.3. Section 15399.52 is added to the Government Code, to read:

15399.52. The guidelines established by the office pursuant to Section 15399.50 shall be advisory in nature. In no way shall these guidelines constitute a mandate upon cities or counties to take any of the actions contained therein.

SEC. 191.4. Section 15399.53 is added to the Government Code, to read:

15399.53. The office shall provide technical assistance and, subject to availability of funds appropriated, grants-in-aid, to assist counties and cities in establishing an expedited permit process pursuant to Section 15399.50. Any city or county receiving such a grant shall enact an expedited permit process within 10 months of the date of receipt. Nothing in this section or in Section 15399.50, shall in any way preclude a county or city from establishing an expedited permit process pursuant to a procedure established solely by that

county or city. If the office has adopted guidelines pursuant to Section 15399.50, and a county or city has established an expedited permit process pursuant to its own procedures, in all cases the process established by the city or county shall prevail over conflicting provisions of the guidelines.

SEC. 191.5. Section 15399.54 is added to the Government Code, to read:

15399.54. The office shall provide information to developers explaining the permit approval process at the state and local level. The office shall ensure that all state agencies comply with applicable requirements of this chapter and Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7.

SEC. 191.6. Section 15399.55 is added to the Government Code, to read:

15399.55. (a) The office may call a conference of parties to resolve questions or mediate disputes arising from permit applications on any proposed development project.

(b) The office shall assist state and local agencies in an attempt to streamline the permit approval process at the state and local level.

(c) The office shall provide information to developers to assist them in meeting the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

SEC. 191.7. Section 15399.56 is added to the Government Code, to read:

15399.56. (a) The office, in consultation with the Resources Agency and the Environmental Protection Agency, shall develop a consolidated project information form which may be used for sufficient information to allow state agencies to determine whether or not the project will be subject to the requirement for a permit from the agency.

(b) Applicants for development projects may submit the form provided by subdivision (a) to the office for distribution to state agencies that have permit responsibilities for development projects. The office shall send copies of the form to these agencies within three days of receipt.

(c) Within 30 days of receipt of the form, each agency shall notify the office in writing whether or not a permit from that agency may be required. The agency shall then send the office the appropriate permit application forms.

(d) Within 15 days of receipt of the completed form from the agencies, the office shall notify the applicant for a development project in writing of any permits required for the project specified, and it shall send the applicant the appropriate permit application forms received from the state agencies.

(e) The office, in consultation with the Resources Agency, and the Environmental Protection Agency shall develop a consolidated project application form which may be used by applicants for development projects. The application form shall contain sufficient

information to allow other state agencies, departments, commissions, boards, and other administrative divisions within the agencies, to act on a permit for the project.

(f) Each state agency may develop an agency consolidated project application form which may be used by applicants for development projects. The application form shall contain sufficient information to allow the agency and any department, commission, board, and other administrative division within that agency to act on a permit.

(g) The office, in consultation with local governments, shall develop a consolidated project application form which may be used by applicants for development projects. The application form shall contain sufficient information to allow local agencies to act on a permit for the project and shall allow for additional information needs of local agencies.

(h) The office may charge an applicant for a development project a fee, not to exceed the estimated reasonable cost of providing the services performed pursuant to this section. Before levying or charging a fee, the office shall adopt or amend regulations pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 2 of Title 2). The office shall make available to the public upon request data indicating the amount of cost, or estimated cost, required to provide the service, including general or special fund revenues.

SEC. 191.8. Section 15399.60 is added to the Government Code, to read:

15399.60. (a) All employees of the Office of Permit Assistance, as created in the Office of Planning and Research by Chapter 1599 of the Statutes of 1985, relating to permit assistance, who, on the operative date of this section, are serving on the office staff, other than as temporary employees, shall be transferred to the Office of Permit Assistance established in the Trade and Commerce Agency. In accordance with Section 19050.9, the status, positions, and rights of these persons shall not be affected by the transfer, and, except as to positions exempt from civil service, they shall be subject to state civil service.

(b) The State Personnel Board shall authorize temporary appointment authority under Section 5 of Article VII of the California Constitution and Section 19059, and shall conduct examinations necessary to accomplish the prompt filling of employee positions in the Office of Permit Assistance. All persons employed by the Office of Permit Assistance on July 1, 1993, may participate in departmental examinations for the Office of Permit Assistance for a period of one year following the enactment of this section.

SEC. 192. Section 66503 of the Government Code is amended to read:

66503. The commission shall consist of 19 members as follows:

(a) Two members each from the City and County of San Francisco and the Counties of Alameda, Contra Costa, San Mateo,

and Santa Clara. With respect to the members from San Francisco, the mayor shall appoint one member and the board of supervisors shall appoint one member. With respect to the members from Alameda, Contra Costa, San Mateo, and Santa Clara Counties, the city selection committee organized in each county pursuant to Article 11 (commencing with Section 50270) of Chapter 1 of Part 1 of Division 1 of Title 5, shall appoint one member and the board of supervisors shall appoint one member.

(b) One member each from Marin, Napa, Solano, and Sonoma Counties. The city selection committee of these counties shall furnish to the board of supervisors the names of three nominees and the board of supervisors shall appoint one of the nominees to represent the county.

(c) One representative each appointed by the Association of Bay Area Governments and the San Francisco Bay Conservation and Development Commission.

(d) One representative, who shall be a nonvoting member, appointed by the Secretary of the Trade and Commerce Agency.

(e) One representative each appointed by the United States Department of Transportation and Department of Housing and Urban Development, provided such representatives shall serve only if the agencies they represent are amenable to such appointments. These representatives shall be nonvoting members.

Public officers, whether elected or appointed, may be appointed and serve as members of the commission during their terms of public office.

SEC. 193. Section 91550 of the Government Code is amended to read:

91550. There is in state government the California Industrial Development Financing Advisory Commission, consisting of five members, as follows:

(a) The Treasurer, who shall serve as chairperson.

(b) The Controller.

(c) The Director of Finance.

(d) The Secretary of the Trade and Commerce Agency.

(e) The Commissioner of Corporations.

Members of the commission may each designate a deputy or employee in his or her agency to act for him or her at all meetings of the commission. The first meeting shall be convened by the Treasurer.

SEC. 194. Section 40448.6 of the Health and Safety Code is amended to read:

40448.6. The Legislature hereby finds and declares all of the following:

(a) It is necessary to increase the availability of financial assistance to small businesses which are subject to the rules and regulations of the south coast district, in order to minimize economic dislocation and adverse socioeconomic impacts.

(b) It is in the public interest that a portion of the funds collected

by the south coast district from violators of air pollution regulations be allocated for the purpose of guaranteeing or otherwise reducing the financial risks of providing financial assistance to small businesses which face increased borrowing requirements in order to comply with air pollution control requirements.

(c) Public agencies and private lenders have a variety of methods available for providing financing assistance to small businesses and other employers, including taxable bonds, composite or pooled financing instruments, loan guarantees, and credit insurance, which could be utilized in combination with the penalties collected by the south coast district to expand the availability and reduce the cost of financing assistance.

(d) The California Pollution Control Financing Authority has funds set aside from previous bond issues, which could be used to guarantee the issuance of bonds or other financing for small businesses for the purchase and installation of pollution control equipment.

(e) The Office of Small Business in the Trade and Commerce Agency, through the regional small business development corporations, has the ability to provide state loan guarantees and technical assistance to small businesses needing financial assistance.

(f) The Job Training Partnership Division of the Employment Development Department makes funds available for job training programs, including funds for dislocated workers, through the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.).

(g) It is the policy of the state that the Job Training Partnership Division of the Employment Development Department, in cooperation with the districts and the state board, are encouraged to provide job training programs for workers who, as determined by the department or the local private industry council, have been laid off or dislocated as a result of actions resulting from air quality regulations.

(h) It is the policy of the state that the California Pollution Control Financing Authority, the Office of Small Business in the Trade and Commerce Agency, and other state agencies implementing small business assistance programs, in cooperation with the districts and the state board, are encouraged to provide technical and financial assistance to small businesses to facilitate compliance with air quality regulations.

SEC. 195. Section 42803 of the Health and Safety Code is amended to read:

42803. (a) The California Dry Cleaning Industry Task Force is hereby created.

(b) The task force is comprised of the following members:

(1) The Secretary for Environmental Protection.

(2) The Secretary of the Trade and Commerce Agency.

(3) The Executive Director of the State Water Resources Control Board.

(4) A representative of the California regional water quality

control boards designated by the Executive Director of the State Water Resources Control Board.

(5) The chairperson of the state board.

(6) The Director of Toxic Substances Control.

(7) A representative of the dry cleaning equipment manufacturing industry, appointed by the chairperson of the task force.

(8) Two representatives of the dry cleaning industry, appointed by the chairperson of the task force.

(9) A representative of the California Air Pollution Control Officers Association.

(10) The chairperson of an appropriate policy committee of the Senate designated by the President pro Tempore of the Senate.

(11) The chairperson of an appropriate policy committee of the Assembly designated by the Speaker of the Assembly.

(12) A representative of a publicly owned treatment works.

(13) A representative from the League of California Cities.

(c) A member of the task force who is unable to attend any meeting may designate a representative to attend and vote on his or her behalf.

SEC. 196. Section 2802 of the Penal Code is amended to read:

2802. The authority shall be under the policy direction of a board of directors, to be known as the Prison Industry Board, and to be referred to hereafter as the board. The board shall consist of eleven members:

(a) The Director of Corrections shall be a member.

(b) The Director of the Department of General Services, or his or her designee, shall be a member.

(c) The Secretary of the Trade and Commerce Agency, or his or her designee, shall be a member.

(d) The Speaker of the Assembly shall appoint two members to represent the general public.

(e) The Senate Rules Committee shall appoint two members to represent the general public.

(f) The Governor shall appoint four members. Of these, two shall be representatives of organized labor, and two shall be representatives of industry. The initial term of one of the members appointed by the Speaker of the Assembly shall be two years, and the initial term of the other shall be three years. The initial term of one of the members appointed by the Senate Rules Committee shall be two years, and the initial term of the other shall be three years. The initial terms of the four members appointed by the Governor shall be four years. All subsequent terms of all members shall be for four years. Each member's term shall continue until the appointment and qualification of his successor.

SEC. 197. Section 30301 of the Public Resources Code is amended to read:

30301. The commission shall consist of the following 16 members:

(a) The Secretary of the Resources Agency.

(b) The Secretary of the Business and Transportation Agency.

(c) The Chairperson of the State Lands Commission.

(d) The Secretary of Trade and Commerce.

(e) Six representatives of the public from the state at large. The Governor, the Senate Committee on Rules, and the Speaker of the Assembly shall each appoint two of these members.

(f) Six representatives selected from six coastal regions. The Governor shall select one member from the north coast region and one member from the south central coast region. The Speaker of the Assembly shall select one member from the central coast region and one member from the San Diego coast region. The Senate Committee on Rules shall select one member from the north central coast region and one member from the south coast region. For purposes of this division, these regions are defined as follows:

(1) The north coast region consists of the Counties of Del Norte, Humboldt, and Mendocino.

(2) The north central coast region consists of the Counties of Sonoma and Marin and the City and County of San Francisco.

(3) The central coast region consists of the Counties of San Mateo, Santa Cruz, and Monterey.

(4) The south central coast region consists of the Counties of San Luis Obispo, Santa Barbara, and Ventura.

(5) The south coast region consists of the Counties of Los Angeles and Orange.

(6) The San Diego region consists of the County of San Diego.

SEC. 198. Section 30301.5 of the Public Resources Code is amended to read:

30301.5. Members of the commission serving under subdivision (a), (b), (c), or (d) of Section 30301 shall be nonvoting members and may appoint a designee to serve at his or her pleasure who shall have all the powers and duties of the member pursuant to this division.

SEC. 199. Section 36300 of the Public Resources Code is amended to read:

36300. The Ocean Resources Task Force is hereby created in state government. The task force is comprised of the following or their designee: the Secretary of Environmental Affairs, the Secretary of the Resources Agency, the Secretary of the Trade and Commerce Agency, the State Director of Health Services, the Secretary of the Business, Transportation and Housing Agency, the Chairperson or Executive Officer of the State Lands Commission as determined by the commission, the Chairperson or Executive Director of the California Coastal Commission as determined by the commission, the Chairperson or Executive Officer of the Coastal Conservancy as determined by the conservancy, the Chairperson or Executive Director of the San Francisco Bay Conservation and Development Commission as determined by the commission, the Director of Conservation, the Director of Fish and Game, the Director of Boating and Waterways, the Director of Parks and Recreation, the Chairperson of the Mining and Geology Board, the Chairperson or

Executive Director of the State Water Resources Control Board as determined by the board, the Executive Officer of each California regional water quality control board for a coastal region, the Director of Finance, the Chairperson or Executive Director of the State Energy Resources Conservation and Development Commission as determined by the commission, the Chairperson of the State Air Resources Board, the Chairperson of the Senate Committee on Natural Resources and Wildlife, the Chairperson of the Assembly Natural Resources Committee, the President of the University of California, the Chancellor of the California State University, and the Director of the California Sea Grant program.

SEC. 200. Section 17053.11 of the Revenue and Taxation Code is amended to read:

17053.11. (a) There shall be allowed as a credit against the "net tax" (as defined in Section 17039) for the taxable year the amount determined in subdivisions (c) and (d) for a qualified business which hires a qualified employee.

(b) For purposes of this section:

(1) "Qualified business" means either (A) a qualified business, as defined in Section 7082 of the Government Code, or (B) a qualified business, as defined in Section 7082 of the Government Code, except that the percentage requirements with respect to employment of residents of a high-density unemployment area shall be applicable only to those employees hired within the 12 months immediately preceding the date that the business seeks certification from the Trade and Commerce Agency and not to the entire work force of the business. A business that qualifies under clause (B) shall be a qualified business only for the purposes of this section, provided that the Trade and Commerce Agency certifies that the business meets the standards set forth in this paragraph.

(2) "Qualified employee" means an employee who has been an unemployed resident of a high-density unemployment area (as defined in Section 7082 of the Government Code) prior to being employed by the qualified business. For the purposes of this section, participation by a prospective employee in a state or federally funded job training or work demonstration program shall not constitute employment, or effect the eligibility of an otherwise qualified employee. Qualified employee includes an otherwise qualified employee who is employed by a qualified business in the 90 days prior to its certification by the Trade and Commerce Agency as a qualified business for the purpose of becoming eligible for that certification.

(c) The credit provided for each qualified employee who has been unemployed for at least six months prior to being employed pursuant to subdivision (a), shall be an amount equal to the sum of each of the following:

(1) Fifty percent for qualified wages in the first year of employment.

(2) Forty percent for qualified wages in the second year of

employment.

(3) Thirty percent for qualified wages in the third year of employment.

(4) Twenty percent for qualified wages in the fourth year of employment.

(5) Ten percent for qualified wages in the fifth year of employment.

(d) The credit provided for each qualified employee who has been unemployed for at least three months but less than six months prior to being employed shall be 25 percent of qualified wages for the first year of employment; however, the credit for the second year of employment shall be that provided in paragraph (2) of subdivision (c), the credit for the third year of employment shall be that provided in paragraph (3) of subdivision (c), the credit for the fourth year of employment shall be that provided in paragraph (4) of subdivision (c), and the credit for the fifth year of employment shall be that provided in paragraph (5) of subdivision (c).

(e) For purposes of this section, "qualified wages" means that portion of wages not in excess of 150 percent of the minimum hourly wage paid or incurred by the qualified business during the taxable year to the qualified employee.

(f) (1) If the employment of any employee with respect to whom qualified wages are taken into account under subdivision (c) or (d) is terminated by the taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(2) Paragraph (1) shall not apply to any of the following:

(A) A termination of employment of an employee who voluntarily leaves the employment of the taxpayer.

(B) A termination of employment of an individual who, before the close of the period referred to in paragraph (1), becomes disabled to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that individual.

(C) A termination of employment of an individual, if it is determined under the applicable unemployment compensation provisions that the termination was due to the misconduct of that individual.

(D) A termination of employment of an individual due to a substantial reduction in the trade or business operations of the taxpayer other than regularly occurring seasonal reductions.

(E) A termination of employment of an individual, if that individual is replaced by other qualified employees so as to create a

net increase in both number of employees and hours of employment.

(F) For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the taxpayer, if the employee continues to be employed in that trade or business and the taxpayer retained a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(g) In the case of an estate or trust—

(1) The qualified wages for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each, and

(2) Any beneficiary to whom any qualified wages have been apportioned under paragraph (1) shall be treated (for purposes of this part) as the employer with respect to those wages.

(h) The credit shall be reduced by the credit allowed under Section 17053.7. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit.

(i) In the case where the credit allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit which exceeds the "net tax" may be carried over to the "net tax" in succeeding taxable years until the credit is used. The credit shall be applied first to the earliest taxable years possible.

(j) The amount of the credit allowed by this section for any taxable year shall not exceed the amount of tax which would be imposed on the income attributed to business activities of the taxpayer within the program area (as defined in Section 7082 of the Government Code) as if that attributed income represented all of the income of the taxpayer subject to tax under this part. The amount of that attributed income shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section as follows:

(1) For taxable years beginning on or after January 1, 1991, and ending on or before December 31, 1996, income shall be apportioned to the program area by multiplying total income from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(2) "The program area" shall be substituted for "this state."

SEC. 201. (a) Except as provided in subdivision (b), any section of any act enacted by the Legislature during the 1993 calendar year that takes effect on or before January 1, 1994, and that 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.

(b) Notwithstanding subdivision (a), the provisions of Sections 15399.50, 15399.51, 15399.52, 15399.53, 15399.54, 15399.55, 15399.56, and 15399.60 of the Government Code, as added by Sections 191.1, 191.2, 191.3, 191.4, 191.5, 191.6, 191.7, and 191.8 of this act, shall prevail over the provisions of AB 2351, Chapter 56 of the Statutes of 1993.

SEC. 202. 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 the orderly and efficient civil service testing of the World Trade Commission and Office of Permit Assistance employees and the clarification of powers residing with and within the agency, it is necessary that this act go into effect immediately.

CHAPTER 1154

An act to add Section 1367.23 to the Health and Safety Code, and to add Sections 10199.44 and 10199.46 to the Insurance Code, relating to insurance.

[Approved by Governor October 10, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 1367.23 is added to the Health and Safety Code, to read:

1367.23. (a) On and after January 1, 1994, every group health care service plan contract, which is issued, amended, or renewed, shall include a provision requiring the health care service plan to notify the group contractholders in writing of the cancellation of the plan contract and shall include in their contract with group contractholders a provision requiring the group contractholder to mail promptly to each subscriber a legible, true copy of any notice of cancellation of the plan contract which may be received from the plan and to provide promptly to the plan proof of that mailing and the date thereof.

(b) The notice of cancellation from the group contractholder to the subscriber required by subdivision (a) shall include information regarding the conversion rights of persons covered under the plan contract upon termination of the plan contract. This information shall be in clear and easily understandable language.

SEC. 2. Section 10199.44 is added to the Insurance Code, to read:

10199.44. (a) On or after January 1, 1994, every insurer issuing, amending, or renewing group disability insurance which covers hospital, medical, or surgical expenses shall notify the group policyholders in writing of the cancellation of the group policy and shall include in their contract with group policyholders, regardless of the situs of that contract, a provision requiring the group policyholder to mail promptly to each person covered under the group policy a legible, true copy of any notice of cancellation of the policy which may be received from the insurer and to provide promptly to the insurer proof of that mailing and the date thereof.

(b) The notice of cancellation required by subdivision (a) shall include information regarding the conversion rights of persons covered under the group policy upon termination of the group policy. This information shall be in clear and easily understandable language.

SEC. 3. Section 10199.46 is added to the Insurance Code, to read:

10199.46. (a) On or after January 1, 1994, every nonprofit hospital service plan issued, amended, or renewed that covers hospital, medical, or surgical expenses on a group basis shall notify the group contractholders in writing of the cancellation of the plan contract and shall include in their contract with group contractholders a provision requiring the group contractholder to mail promptly to each subscriber a legible, true copy of any notice of cancellation of the plan contract which may be received from the plan and to provide promptly to the plan proof of that mailing and the date thereof.

(b) The notice of cancellation required by subdivision (a) shall include information regarding the conversion rights of persons covered under the plan contract upon termination of the plan contract. This information shall be in clear and easily understandable language.

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 1155

An act to add Sections 5506.3, 5538.3, and 5539.3 to the Public Resources Code, relating to regional park or open-space districts.

[Approved by Governor October 10, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 5506.3 is added to the Public Resources Code, to read:

5506.3. (a) (1) The Legislature hereby finds and declares that the population of San Diego County continues to grow at an increasing rate, and already the county is far behind other urban areas in the state in providing adequate park, recreational, and open-space facilities for its residents. Formation of a regional district with boundaries coterminous with those of San Diego County is critical to help address the growing and unmet park and recreational needs in San Diego County.

(2) Proceedings for the formation of a regional park and open-space district or a regional open-space district with boundaries coterminous with those of San Diego County may be initiated by resolution of the Board of Supervisors of the County of San Diego after a hearing noticed in accordance with Section 6064 of the Government Code, in lieu of the petition and proceedings related to the petition specified in this article.

(b) As used in this section and Sections 5538.3 and 5539.3:

(1) "Regional district" means a district formed pursuant to this section that contains all of the territory within San Diego County, including all incorporated cities.

(2) "Capital outlay project" means the acquisition or improvement of real property, but, for purposes of subdivision (c) includes the servicing of bonds issued pursuant to Section 5539.3.

(c) The resolution specified in subdivision (a) shall do all of the following:

(1) Name the proposed regional district and state the reasons for forming it.

(2) Specify that the Board of Supervisors of the County of San Diego shall act, ex officio, as the governing body of the regional district. The provisions of this article pertaining to district directors do not apply, and all powers and authority of the regional district shall be vested in the board of supervisors in its capacity as the governing body of the regional district.

(3) Describe the territory to be included in the regional district.

(4) Describe the methods by which the regional district will be financed.

(5) (A) Specify that all revenue generated by the regional district, including the proceeds from the issuance of any bonds, shall

be allocated among all affected public agencies within the territory of the district, for expenditure consistent with the purposes of this article, to adequately address the needs specified in subdivision (a) of Section 5539.3.

(B) For the purposes of this paragraph, "all affected public agencies" means the County of San Diego, all incorporated cities within the county, and any joint powers authority or agency established for the purpose of acquiring land for park, recreational, open-space, and conservation purposes.

(6) (A) Call and give notice of an election to be held in the proposed regional district for the purpose of determining whether the regional district shall be formed.

(B) Notwithstanding Section 5518, the County Counsel of the County of San Diego shall prepare the language in the ballot label. The proposition shall specify the matters set forth in the resolution, except for subparagraph (A). The analysis and review of the measure shall be carried out pursuant to Section 3781 of the Elections Code.

(7) State that, in the first 20 years after the date that an assessment is levied pursuant to Section 5539.3, a minimum of 80 percent of all proceeds of assessments levied by the regional district shall be used for capital outlay projects.

(8) Include an expenditure plan consisting of a list of capital outlay projects, including acquisition areas, and a general description of proposed outlays for operation and maintenance to be funded, over a 20-year period from the date on which the assessment is first levied, with proceeds of assessments levied by the regional district.

(9) State the proposed rate and method of apportionment to be used in levying annual assessments for all categories of property.

(10) Include any other matters determined to be necessary by the board of supervisors.

(d) (1) The formation of the regional district is not subject to Section 5517.1 or to the Cortese-Knox Local Government Reorganization Act of 1985 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code).

(2) The regional district shall be formed if a majority of voters voting on the proposition vote in favor of formation of the regional district.

(e) (1) No proceeds from any bonds issued pursuant to Section 5539.3 shall be expended for operation and maintenance. Bond proceeds may be expended to pay all costs incidental to the preparation and issuance of the bonds.

(2) The regional district may use the proceeds from the levy of assessments for the operation and maintenance of capital outlay projects.

(f) The San Diego Association of Governments, serving as the Regional Planning and Growth Management Review Board, should review the expenditure plan for consistency with the open-space element of the Regional Growth Management Strategy.

SEC. 2. Section 5538.3 is added to the Public Resources Code, to

read:

5538.3. The officers and employees of the County of San Diego may act, ex officio, as officers and employees of the regional district formed pursuant to Section 5506.3 and may discharge the authority and responsibility specified in this article. The County of San Diego may provide the services and facilities needed to carry out the functions of the regional district. The proceeds of assessments levied pursuant to Section 5539.3 may be expended to reimburse the county for the actual costs of those services and facilities.

SEC. 3. Section 5539.3 is added to the Public Resources Code, to read:

5539.3. (a) (1) The Legislature hereby finds and declares that the land acquisition, improvements, and services provided by the regional district formed pursuant to Section 5506.3 will specifically benefit the properties assessed and the persons paying the assessments authorized in this section in at least the following respects:

(A) Enhanced recreational opportunities and expanded access to recreational facilities for all residents throughout the regional district.

(B) Improved quality of life for all communities in the regional district by protecting, restoring, and improving the regional district's irreplaceable park, wildlife, open-space, and beach lands.

(C) Preservation of canyons, foothills, and mountains and development of public access to these lands throughout the regional district.

(D) Protection of the diverse historical, cultural, and archaeological values of the territory of the regional district.

(E) Increased economic activity and expanded employment opportunities within the regional district.

(F) Increased property values, resulting from the benefits specified in this subdivision.

(G) Provision of benefits to all properties within the regional district, including positive impacts on air and water quality, capacity of roads, transportation and other public infrastructure systems, schools, and public utilities.

(2) The Legislature further finds and declares all of the following:

(A) The expansion, restoration, and improvement of park, recreational, beach, and open-space lands throughout the regional district benefits all residents in the regional district.

(B) Protection, restoration, and improvement of the lands within the regional district are vital to the quality of life for all residents in the regional district.

(C) Increased park and recreational opportunities in the densely populated and heavily urbanized areas of the regional district are vital to the health and well-being of all residents in the regional district, and providing those opportunities is a high priority.

(D) Portions of parcels of land that are in commercial agricultural use do not benefit from park or open-space lands, facilities, or

services funded pursuant to this section.

(b) In addition to the authority conferred in Section 5539.5, to the extent not inconsistent with this section, all provisions of the Landscaping and Lighting Act of 1972 (Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code), are applicable to the regional district, except as follows:

(1) Article 2 (commencing with Section 22605) of Chapter 2 of Part 2 of Division 15 of the Streets and Highways Code does not apply.

(2) No changes shall be made pursuant to Chapter 3 (commencing with Section 22620) of Part 2 of Division 15 of the Streets and Highways Code or Section 5572 of this code with respect to the rate and method of apportionment of assessments, the use of proceeds of assessments, the use of proceeds of bonds, and the territory included within the district, except that the governing body may correct errors in assessments, rule on appeals of assessments against particular parcels, and annually adjust the assessments levied against particular parcels of real property to reflect changes in the uses of those parcels.

(3) No changes shall be made to the rate and method of apportionment of any assessment approved by the voters and levied pursuant to this section.

(4) In addition to the items required by Section 22567 of the Streets and Highways Code, the regional district's annual report shall include all of the following:

(A) Changes in the total number of parcels assessed and changes in the number of parcels with respect to use code.

(B) The amount of revenue expected to be received by the regional district in the next fiscal year.

(C) The proposed allocation of funds for operation and maintenance for the next fiscal year.

(D) The expenditure of funds in the current fiscal year.

(5) Any notice required pursuant to the Landscaping and Lighting Act of 1972, Section 54954.6 of the Government Code, or Section 5511 shall be published pursuant to Section 6064 of the Government Code.

(6) (A) (i) The governing body shall not levy any assessment unless a proposition authorizing the regional district to levy the assessment is first approved by a majority of the voters voting on the proposition. The proposition shall include the matters specified in subdivision (c) of Section 5506.3, except for paragraph (6). The election held pursuant to this paragraph shall satisfy the requirement for any election that may be required under Section 22525.5 of the Streets and Highways Code.

(ii) No additional assessment shall be levied pursuant to this section, including any assessment for time periods beyond those specified in paragraphs (7) and (8) of subdivision (c) of Section 5506.3, unless a proposition, including the provisions specified in paragraphs (5), (8), and (9) of subdivision (c) of Section 5506.3, is

approved by a majority of the voters in the regional district voting on the proposition.

(B) Notwithstanding Section 5518, the County Counsel of the County of San Diego shall prepare the language in the ballot label. The analysis and review of the measure shall be carried out pursuant to Section 3781 of the Elections Code.

(C) The Board of Supervisors of San Diego County may consolidate a proposition submitted to the voters pursuant to this paragraph into a single ballot measure with the proposition whether to form the regional district submitted pursuant to paragraph (6) of subdivision (c) of Section 5506.3.

(D) Notwithstanding any other provision of the Landscaping and Lighting Act of 1972, any assessment proposed pursuant to that act shall be deemed levied upon approval of a majority of the voters voting on the proposition.

(7) (A) All proceeds of assessments levied or bonds issued by the regional district shall be allocated in accordance with paragraphs (5) and (8) of subdivision (c) of Section 5506.3.

(B) Any future expenditure plan shall include a division of funds between expenditures for capital outlay projects and expenditures for operation and maintenance, a list of proposed capital outlay projects, and a description of areas proposed for acquisition. No expenditure plan shall contain any provision that may impair the payment of debt service on bonds or other evidence of indebtedness previously issued pursuant to this section. Any assessment levied pursuant to this section may include an annual amount to pay the costs of operation and maintenance and may be collected in annual installments.

(c) Prior to the election required by paragraph (6) of subdivision (b), the Board of Supervisors of San Diego County may undertake proceedings on behalf of the proposed regional district in accordance with Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code to create an assessment district with the same boundaries as the proposed regional district. Hearings required pursuant to Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code may be consolidated with those required pursuant to this article. Those proceedings shall be deemed to be the proceedings required by Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code.

(d) (1) The governing body shall exempt from assessment any uninhabited parcel that is substantially used in agriculture and any parcel enforceably restricted as open-space land during the time that the parcel is so used or restricted, if the governing body determines that the parcel will not benefit from the expenditure of the proceeds of assessments.

(2) For purposes of this subdivision, lands that are enforceably restricted as open-space lands include, but are not limited to, lands restricted under contract pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title

5 of the Government Code) and lands restricted pursuant to a conservation easement.

(e) Notwithstanding any other provision in the acts specified in Section 5539.5 and in subdivision (b), the net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each lot or parcel from the improvements.

(f) The regional district shall not levy assessments beyond the last maturity date of any bonds issued pursuant to Section 5539.3 nor longer than 30 years from the date on which the assessment is first levied.

(g) The regional district shall not levy an assessment within a city or within the unincorporated territory of the county if the city or the county has adopted an ordinance limiting rents, which ordinance applies to real property other than mobilehome parks, unless one of the following applies:

(1) Under the ordinance, the owner of the real property is permitted to increase directly without filing requirements, the rent rate owed by a tenant under an existing lease in an amount not less than that tenant's proportional share of one-half of the increased assessment applied to the real property.

(2) An amount not less than a tenant's proportional share of one-half of the increased assessment applied to the real property is added to an annual general adjustment to the rental rate owed by that tenant.

SEC. 4. The Legislature hereby declares that this measure is intended to provide an additional mechanism to fund park, open-space, and recreational projects and programs in San Diego County. This measure is not intended to affect or otherwise limit the ability of any public agency to exercise any authority that the public agency may otherwise have under existing law.

SEC. 5. If any provision of this act or the application thereof is held invalid, that invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

CHAPTER 1156

An act to amend Sections 4055, 4056, 4057, 4065, 4069, and 4071 of, and to add Section 4076 to, the Family Code, relating to family law.

[Approved by Governor October 10, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 4055 of the Family Code, as added by Section 138 of Chapter 219 of the Statutes of 1993, is amended to read:

4055. (a) The statewide uniform guideline for determining child support orders is as follows: CS = K [HN − (H%) (TN).

(b) (1) The components of the formula are as follows:

(A) CS = child support amount.

(B) K = amount of both parents' income to be allocated for child support as set forth in paragraph (3).

(C) HN = high earner's net monthly disposable income.

(D) H% = approximate percentage of time that the high earner has or will have primary physical responsibility for the children compared to the other parent. In cases in which parents have different time-sharing arrangements for different children, H% equals the average of the approximate percentages of time the high earner parent spends with each child.

(E) TN = total net monthly disposable income of both parties.

(2) To compute net disposable income, see Section 4059.

(3) K (amount of both parents' income allocated for child support) equals one plus H% (if H% is less than or equal to 50 percent) or two minus H% (if H% is greater than 50 percent) times the following fraction:

Total Net Disposable Income Per Month	K
$0–800	0.20 + TN/16,000
$801–6,666	0.25
$6,667–10,000	0.10 + 1000/TN
Over $10,000	0.12 + 800/TN

For example, if H% equals 20 percent and the total monthly net disposable income of the parents is $1,000, K = (1 + 0.20) × 0.25, or 0.30. If H% equals 80 percent and the total monthly net disposable income of the parents is $1,000, K = (2 − 0.80) × 0.25, or 0.30.

(4) For more than one child, multiply CS by:

2 children	1.6
3 children	2
4 children	2.3
5 children	2.5
6 children	2.625
7 children	2.75
8 children	2.813
9 children	2.844
10 children	2.86

(5) If the amount calculated under the formula results in a positive number, the higher earner shall pay that amount to the lower earner. If the amount calculated under the formula results in a negative number, the lower earner shall pay the absolute value of that amount to the higher earner.

(6) In any default proceeding where proof is by affidavit pursuant to Section 2336, or in any proceeding for child support in which a party fails to appear after being duly noticed, H% shall be set at zero in the formula if the noncustodial parent is the higher earner or at 100 if the custodial parent is the higher earner, where there is no evidence presented demonstrating the percentage of time that the noncustodial parent has primary physical responsibility for the children.

(7) Unless the court orders otherwise, the order for child support shall allocate the support amount so that the amount of support for the youngest child is the amount of support for one child, and the amount for the next youngest child is the difference between that amount and the amount for two children, with similar allocations for additional children. However, this paragraph does not apply to cases where there are different time-sharing arrangements for different children or where the court determines that the allocation would be inappropriate in the particular case.

SEC. 2. Section 4056 of the Family Code, as added by Section 138 of Chapter 219 of the Statutes of 1993, is amended to read:

4056. (a) To comply with federal law, the court shall state, in writing or on the record, the following information whenever the court is ordering an amount for support that differs from the statewide uniform guideline formula amount under this article:

(1) The amount of support that would have been ordered under the guideline formula.

(2) The reasons the amount of support ordered differs from the guideline formula amount.

(3) The reasons the amount of support ordered is consistent with the best interests of the children.

(b) At the request of any party, the court shall state in writing or on the record the following information used in determining the guideline amount under this article:

(1) The net monthly disposable income of each parent.

(2) The actual federal income tax filing status of each parent (for example, single, married, married filing separately, or head of household and number of exemptions).

(3) Deductions from gross income for each parent.

(4) The approximate percentage of time pursuant to paragraph (1) of subdivision (b) of Section 4055 that each parent has primary physical responsibility for the children compared to the other parent.

SEC. 3. Section 4057 of the Family Code, as added by Section 138 of Chapter 219 of the Statutes of 1993, is amended to read:

4057. (a) The amount of child support established by the formula provided in subdivision (a) of Section 4055 is presumed to be the correct amount of child support to be ordered.

(b) The presumption of subdivision (a) is a rebuttable presumption affecting the burden of proof and may be rebutted by admissible evidence showing that application of the formula would be unjust or inappropriate in the particular case, consistent with the principles set forth in Section 4053, because one or more of the following factors is found to be applicable by a preponderance of the evidence, and the court states in writing or on the record the information required in subdivision (a) of Section 4056:

(1) The parties have stipulated to a different amount of child support under subdivision (a) of Section 4065.

(2) The sale of the family residence is deferred pursuant to Chapter 8 (commencing with Section 3800) of Part 1 and the rental value of the family residence in which the children reside exceeds the mortgage payments, homeowner's insurance, and property taxes. The amount of any adjustment pursuant to this paragraph shall not be greater than the excess amount.

(3) A parent's subsequent spouse or nonmarital partner has income that helps meet that parent's basic living expenses, thus increasing the parent's disposable income available to spend on the children.

(4) The parent being ordered to pay child support has an extraordinarily high income and the amount determined under the formula would exceed the needs of the children.

(5) A party is not contributing to the needs of the children at a level commensurate with that party's custodial time.

(6) Application of the formula would be unjust or inappropriate due to special circumstances in the particular case. These special circumstances include, but are not limited to, the following:

(A) Cases in which the parents have different time-sharing arrangements for different children.

(B) Cases in which both parents have substantially equal time-sharing of the children and one parent has a much lower or higher percentage of income used for housing than the other parent.

(C) Cases in which the children have special medical or other needs that could require child support that would be greater than the formula amount.

SEC. 3.5. Section 4057 of the Family Code, as added by Section

138 of Chapter 219 of the Statutes of 1993, is amended to read:

4057. (a) The amount of child support established by the formula provided in subdivision (a) of Section 4055 is presumed to be the correct amount of child support to be ordered.

(b) The presumption of subdivision (a) is a rebuttable presumption affecting the burden of proof and may be rebutted by admissible evidence showing that application of the formula would be unjust or inappropriate in the particular case, consistent with the principles set forth in Section 4053, because one or more of the following factors is found to be applicable by a preponderance of the evidence, and the court states in writing or on the record the information required in subdivision (a) of Section 4056:

(1) The parties have stipulated to a different amount of child support under subdivision (a) of Section 4065.

(2) The sale of the family residence is deferred pursuant to Chapter 8 (commencing with Section 3800) of Part 1 and the rental value of the family residence in which the children reside exceeds the mortgage payments, homeowner's insurance, and property taxes. The amount of any adjustment pursuant to this paragraph shall not be greater than the excess amount.

(3) The parent being ordered to pay child support has an extraordinarily high income and the amount determined under the formula would exceed the needs of the children.

(4) A party is not contributing to the needs of the children at a level commensurate with that party's custodial time.

(5) Application of the formula would be unjust or inappropriate due to special circumstances in the particular case. These special circumstances include, but are not limited to, the following:

(A) Cases in which the parents have different time-sharing arrangements for different children.

(B) Cases in which both parents have substantially equal time-sharing of the children and one parent has a much lower or higher percentage of income used for housing than the other parent.

(C) Cases in which the children have special medical or other needs that could require child support that would be greater than the formula amount.

SEC. 4. Section 4065 of the Family Code, as added by Section 138 of Chapter 219 of the Statutes of 1993, is amended to read:

4065. (a) Unless prohibited by applicable federal law, the parties may stipulate to a child support amount subject to approval of the court. However, the court shall not approve a stipulated agreement for child support below the guideline formula amount unless the parties declare all of the following:

(1) They are fully informed of their rights concerning child support.

(2) The order is being agreed to without coercion or duress.

(3) The agreement is in the best interests of the children involved.

(4) The needs of the children will be adequately met by the stipulated amount.

(5) The right to support has not been assigned to the county pursuant to Section 11477 of the Welfare and Institutions Code and no public assistance application is pending.

(b) A stipulated agreement of child support is not valid unless the district attorney has joined in the stipulation by signing it in any case in which the district attorney is providing services pursuant to Section 11475.1 of the Welfare and Institutions Code. The district attorney shall not stipulate to a child support order below the guideline amount if the children are receiving assistance under the Aid to Families with Dependent Children (AFDC) program, if an application for public assistance is pending, or if the parent receiving support has not consented to the order.

(c) If the parties to a stipulated agreement stipulate to a child support order below the amount established by the statewide uniform guideline, no change of circumstances need be demonstrated to obtain a modification of the child support order to the applicable guideline level or above.

SEC. 5. Section 4069 of the Family Code, as added by Section 138 of Chapter 219 of the Statutes of 1993, is amended to read:

4069. The establishment of the statewide uniform guideline constitutes a change of circumstances.

SEC. 6. Section 4071 of the Family Code, as added by Section 138 of Chapter 219 of the Statutes of 1993, is amended to read:

4071. (a) Circumstances evidencing hardship include the following:

(1) Extraordinary health expenses for which the parent is financially responsible, and uninsured catastrophic losses.

(2) The minimum basic living expenses of either parent's natural or adopted children for whom the parent has the obligation to support from other marriages or relationships who reside with the parent. The court, on its own motion or on the request of a party, may allow these income deductions as necessary to accommodate these expenses after making the deductions allowable under paragraph (1).

(b) The maximum hardship deduction under paragraph (2) of subdivision (a) for each child who resides with the parent may be equal to, but shall not exceed, the support allocated each child subject to the order. For purposes of calculating this deduction, the amount of support per child established by the statewide uniform guideline shall be the total amount ordered divided by the number of children and not the amount established under paragraph (8) of subdivision (b) of Section 4055.

(c) The Judicial Council may develop tables in accordance with this section to reflect the maximum hardship deduction, taking into consideration the parent's net disposable income before the hardship deduction, the number of children for whom the deduction is being given, and the number of children for whom the support award is being made.

SEC. 7. Section 4076 is added to the Family Code, to read:

4076. (a) Whenever the court is requested to modify a child support order issued prior to July 1, 1992, for the purpose of conforming to the statewide child support guideline, and it is not using its discretionary authority to depart from the guideline pursuant to paragraph (4), (5), or (6) of subdivision (b) of Section 4057, and the amount of child support to be ordered is the amount provided under the guideline formula in subdivision (a) of Section 4055, the court may, in its discretion, order a two-step phasein of the formula amount of support to provide the obligor with time for transition to the full formula amount if all of the following are true:

(1) The period of the phasein is carefully limited to the time necessary for the obligor to rearrange his or her financial obligations in order to meet the full formula amount of support.

(2) The obligor is immediately being ordered to pay not less than 30 percent of the amount of the child support increase, in addition to the amount of child support required under the prior order.

(3) The obligor has not unreasonably increased his or her financial obligations following notice of the motion for modification of support, has no arrearages owing, and has a history of good faith compliance with prior support orders.

(b) Whenever the court grants a request for a phasein pursuant to this section, the court shall state the following in writing:

(1) The specific reasons why (A) the immediate imposition of the full formula amount of support would place an extraordinary hardship on the obligor, and (B) this extraordinary hardship on the obligor would outweigh the hardship caused the supported children by the temporary phasein of the full formula amount of support.

(2) The full guideline amount of support, the date and amount of each phasein, and the date that the obligor must commence paying the full formula amount of support, which in no event shall be later than one year after the filing of the motion for modification of support.

(c) In the event the court orders a phasein pursuant to this section, and the court thereafter determines that the obligor has violated the phasein schedule or has intentionally lowered the income available for the payment of child support during the phasein period, the court may order the immediate payment of the full formula amount of child support and the difference in the amount of support that would have been due without the phasein and the amount of support due with the phasein, in addition to any other penalties provided for by law.

SEC. 7.5. Section 4076 is added to the Family Code, to read:

4076. (a) Whenever the court is requested to modify a child support order issued prior to July 1, 1992, for the purpose of conforming to the statewide child support guideline, and it is not using its discretionary authority to depart from the guideline pursuant to paragraph (3), (4), or (5) of subdivision (b) of Section 4057, and the amount of child support to be ordered is the amount provided under the guideline formula in subdivision (a) of Section

4055, the court may, in its discretion, order a two-step phasein of the formula amount of support to provide the obligor with time for transition to the full formula amount if all of the following are true:

(1) The period of the phasein is carefully limited to the time necessary for the obligor to rearrange his or her financial obligations in order to meet the full formula amount of support.

(2) The obligor is immediately being ordered to pay not less than 30 percent of the amount of the child support increase, in addition to the amount of child support required under the prior order.

(3) The obligor has not unreasonably increased his or her financial obligations following notice of the motion for modification of support, has no arrearages owing, and has a history of good faith compliance with prior support orders.

(b) Whenever the court grants a request for a phasein pursuant to this section, the court shall state the following in writing:

(1) The specific reasons why (A) the immediate imposition of the full formula amount of support would place an extraordinary hardship on the obligor, and (B) this extraordinary hardship on the obligor would outweigh the hardship caused the supported children by the temporary phasein of the full formula amount of support.

(2) The full guideline amount of support, the date and amount of each phasein, and the date that the obligor must commence paying the full formula amount of support, which in no event shall be later than one year after the filing of the motion for modification of support.

(c) In the event the court orders a phasein pursuant to this section, and the court thereafter determines that the obligor has violated the phasein schedule or has intentionally lowered the income available for the payment of child support during the phasein period, the court may order the immediate payment of the full formula amount of child support and the difference in the amount of support that would have been due without the phasein and the amount of support due with the phasein, in addition to any other penalties provided for by law.

SEC. 8. Section 3.5 of this bill incorporates amendments to Section 4057 of the Family Code proposed by both this bill and SB 145. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1994, (2) each bill amends Section 4057 of the Family Code, and (3) this bill is enacted after SB 145, in which case Section 3 of this bill shall not become operative.

SEC. 9. Section 7.5 of this bill shall only become operative if Section 3.5 of this bill becomes operative, in which case Section 7 of this bill shall not become operative.

CHAPTER 1157

An act to amend Sections 13392.5, 13393, 13393.5, 13394, and 13396.5 of, and to add Sections 13394.6 and 13396.7 to, the Water Code, relating to water.

[Approved by Governor October 10, 1993. Filed with Secretary of State October 11, 1993.]

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

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

(a) A significant source of beach contamination results from urban runoff.

(b) The public use of beaches has declined 25 to 30 percent. That decline is attributable in part to concerns about contamination.

(c) The number of beach closures by local public officials continues to increase each year.

SEC. 2. Section 13392.5 of the Water Code is amended to read:

13392.5. (a) Each regional board that has regulatory authority for one or more enclosed bays or estuaries shall, on or before January 30, 1994, develop for each enclosed bay or estuary, a consolidated data base which identifies and describes all known and potential toxic hot spots. Each regional board shall, in consultation with the state board, also develop an ongoing monitoring and surveillance program that includes, but is not limited to, the following components:

(1) Establishment of a monitoring and surveillance task force that includes representation from agencies, including, but not limited to, the State Department of Health Services and the Department of Fish and Game, that routinely monitor water quality, sediment, and aquatic life.

(2) Suggested guidelines to promote standardized analytical methodologies and consistency in data reporting.

(3) Identification of additional monitoring and analyses that are needed to develop a complete toxic hot spot assessment for each enclosed bay and estuary.

(b) Each regional board shall make available to state and local agencies and the public all information contained in the consolidated data base, as well as the results of new monitoring and surveillance data.

SEC. 3. Section 13393 of the Water Code is amended to read:

13393. (a) The state board shall adopt sediment quality objectives pursuant to the workplan submitted pursuant to Section 13392.6.

(b) The state board shall adopt the sediment quality objectives pursuant to the procedures established by this division for adopting or amending water quality control plans. The sediment quality

objectives shall be based on scientific information, including, but not limited to, chemical monitoring, bioassays, or established modeling procedures, and shall provide adequate protection for the most sensitive aquatic organisms. The state board shall base the sediment quality objectives on a health risk assessment if there is a potential for exposure of humans to pollutants through the food chain to edible fish, shellfish, or wildlife.

(c) (1) Notwithstanding subdivision (a), in adopting sediment quality objectives pursuant to this section, the state board shall consider the federal sediment criteria for toxic pollutants that are being prepared, or that have been adopted, by the Environmental Protection Agency pursuant to Section 1314 of Title 33 of the United States Code.

(2) If federal sediment criteria have been adopted, the state board shall review the federal sediment criteria and determine if the criteria meet the requirements of this section. If the state board determines that a federal sediment criterion meets the requirements of this section, the state board shall adopt the criterion as a sediment quality objective pursuant to this section. If the state board determines that a federal sediment criterion fails to meet the requirements of this section, the state board shall adopt a sediment quality objective that meets the requirements of this section.

SEC. 4. Section 13393.5 of the Water Code is amended to read:

13393.5. On or before January 30, 1994, the state board, in consultation with the State Department of Health Services and the Department of Fish and Game, shall adopt general criteria for the assessment and priority ranking of toxic hot spots. The criteria shall take into account the pertinent factors relating to public health and environmental quality, including, but not limited to, potential hazards to public health, toxic hazards to fish, shellfish, and wildlife, and the extent to which the deferral of a remedial action will result, or is likely to result, in a significant increase in environmental damage, health risks, or cleanup costs.

SEC. 5. Section 13394 of the Water Code is amended to read:

13394. On or before January 1, 1998, each regional board shall complete and submit to the state board a toxic hot spots cleanup plan. On or before June 30, 1999, the state board shall submit to the Legislature a consolidated statewide toxic hot spots cleanup plan. The cleanup plan submitted by each regional board and the state board shall include, but not be limited to, the following information:

(a) A priority ranking of all hot spots, including the state board's recommendations for remedial action at each toxic hot spot site.

(b) A description of each hot spot site including a characterization of the pollutants present at the site.

(c) An estimate of the total costs to implement the plan.

(d) An assessment of the most likely source or sources of pollutants.

(e) An estimate of the costs that may be recoverable from parties responsible for the discharge of pollutants that have accumulated in

sediment.

(f) A preliminary assessment of the actions required to remedy or restore a toxic hot spot.

(g) A two-year expenditure schedule identifying state funds needed to implement the plan.

(h) A summary of actions that have been initiated by the regional board to reduce the accumulation of pollutants at existing hot spot sites and to prevent the creation of new hot spots.

(i) The plan submitted by the state board shall include findings and recommendations concerning the need for establishment of a toxic hot spots cleanup program.

SEC. 6. Section 13394.6 is added to the Water Code, to read:

13394.6. (a) The state board shall establish an advisory committee to assist in the implementation of this chapter. The members of the advisory committee shall be appointed by the state board to represent all of the following interests:

(1) Trade associations whose members are businesses that use the bay, estuaries, and coastal waters of the state as a resource in their business activities.

(2) Dischargers required to pay fees pursuant to Section 13396.5.

(3) Environmental, public interest, public health, and wildlife conservation organizations.

(b) The members of the advisory committee shall select a member as the chairperson of the committee. The chairperson shall convene meetings of the committee every three months in any calendar year. The members of the advisory committee shall serve without compensation.

(c) The advisory committee shall have access to all information and documents, except for internal communications, that are prepared to implement this chapter and may provide the state board with its views on how that information should be interpreted and used.

SEC. 7. Section 13396.5 of the Water Code is amended to read:

13396.5. (a) The state board shall establish fees applicable to all point and nonpoint dischargers who discharge into enclosed bays, estuaries, or any adjacent waters in the contiguous zone or the ocean as defined in Section 502 of the Federal Water Pollution Control Act (33 U.S.C. Sec. 1362), which shall be collected annually.

(b) The fees shall create incentives to reduce discharges to the ocean, bays, and estuaries and shall be based on the relative threat to water quality from point and nonpoint dischargers. The schedule of fees shall be set at an amount sufficient to fund the responsibilities and duties of the state board, the Office of Environmental Health Hazard Assessment, and the Department of Fish and Game established by this chapter. The total amount of fees collected pursuant to this section shall not exceed four million dollars ($4,000,000) per year. Nothing in this section limits or restricts the funding of activities required by this chapter from sources in addition to the fees established by this section.

(c) Fees collected pursuant to this section shall be deposited in the Bay Protection and Toxic Cleanup Fund which is hereby created, and shall be available for expenditure by the state board, upon appropriation by the Legislature, for the purposes of carrying out this chapter.

(d) Fees collected pursuant to this section shall be in addition to fees established pursuant to Section 13260 and shall not be subject to the maximum fee established in subdivision (d) of Section 13260, provided that the annual fee under this section shall not exceed the amount of thirty thousand dollars ($30,000) per discharger.

(e) Any person failing to pay a fee established under this section when so requested by the state board is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (d) of Section 13261.

(f) On or before January 1, 1996, the state board shall report to the Legislature on the progress made toward meeting the requirements of this chapter and the adequacy of the fee levels established in subdivisions (b) and (d).

(g) No fee may be imposed pursuant to this section on any agricultural nonpoint source discharger.

(h) This section 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. 8. Section 13396.7 is added to the Water Code, to read:

13396.7. (a) The state board, in consultation with the State Department of Health Services, shall contract with an independent contractor to conduct a study to determine the adverse health effects of urban runoff on swimmers at urban beaches. The contract shall include a provision that requires the study to be conducted as prescribed in the study proposal approved by the Santa Monica Bay Restoration Project. The study shall be paid for by using available resources or state funds appropriated in the annual Budget Act.

(b) It is the intent of the Legislature that the state board and the State Department of Health Services use the results of the study undertaken pursuant to subdivision (a) to establish recreational water quality standards.

CHAPTER 1158

An act to amend Section 8613 of, and to add and repeal Section 8810 of, the Family Code, relating to adoption.

[Approved by Governor October 10, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 8613 of the Family Code is amended to read:

8613. (a) If the prospective adoptive parent is commissioned or enlisted in the military service, or auxiliary thereof, of the United States, or of any of its allies, or is engaged in service on behalf of any governmental entity of the United States, or in the American Red Cross, or in any other recognized charitable or religious organization, so that it is impossible or impracticable, because of the prospective adoptive parent's absence from this state, or otherwise, to make an appearance in person, and the circumstances are established by satisfactory evidence, the appearance may be made for the prospective adoptive parent by counsel, commissioned and empowered in writing for that purpose. The power of attorney may be incorporated in the adoption petition.

(b) Where the prospective adoptive parent is permitted to appear by counsel, the agreement may be executed and acknowledged by the counsel, or may be executed by the absent party before a notary public, or any other person authorized to take acknowledgments including the persons authorized by Sections 1183 and 1183.5 of the Civil Code.

(c) Where the prospective adoptive parent is permitted to appear by counsel, or otherwise, the court may, in its discretion, cause an examination of the prospective adoptive parent, other interested person, or witness to be made upon deposition, as it deems necessary. The deposition shall be taken upon commission, as prescribed by the Code of Civil Procedure, and the expense thereof shall be borne by the petitioner.

(d) The petition, relinquishment or consent, agreement, order, report to the court from any investigating agency, and any power of attorney and deposition shall be filed in the office of the county clerk.

(e) The provisions of this section permitting an appearance through counsel are equally applicable to the spouse of a prospective adoptive parent who resides with the prospective adoptive parent outside this state.

(f) Where, pursuant to this section, neither prospective adoptive parent need appear before the court, the child proposed to be adopted need not appear. If the law otherwise requires that the child execute any document during the course of the hearing, the child may do so through counsel.

(g) Where none of the parties appears, the court may not make

an order of adoption until after a report has been filed with the court pursuant to Section 8715, 8807, 8914, or 9001.

SEC. 2. Section 8810 is added to the Family Code, to read:

8810. (a) Except as otherwise provided in this section, if a petition is filed under this chapter for the adoption of a child, the petitioner shall pay a fee to the department or delegated county adoption agency, as follows:

(1) For petitions filed from March 5, 1993, through June 30, 1993, five hundred dollars ($500) before the filing of a favorable report in the court by the department or delegated county adoption agency.

(2) For petitions filed on and after July 1, 1993, one thousand two hundred fifty dollars ($1,250).

The department or agency may defer, waive, or reduce the fee when in its judgment the payment would cause economic hardship to the prospective adoptive parents and would be detrimental to the welfare of the adopted child.

(3) Where the adoption is interrupted prior to the filing of the report of the department or delegated county adoption agency, the adoption petition may be withdrawn and no adoption fee shall be assessed for any services rendered by the department or delegated county adoption agency, and any such fees already paid shall be refunded.

(b) Revenues produced by fees collected by the department pursuant to subdivision (a) shall be used, when appropriated by the Legislature, to fund only the direct costs associated with the state program for independent adoptions. Revenues produced by fees collected by the delegated county adoption agency pursuant to subdivision (a) shall be used by the county to fund the county program for independent adoptions.

(c) This section shall become operative on January 1, 1994, or upon such later date as the Family Code added by Chapter 162 of the Statutes of 1992 becomes operative.

(d) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, which is enacted before that date, deletes or extends that date.

CHAPTER 1159

An act to add and repeal Section 18032.5 to the Health and Safety Code, to add Chapter 10.7 (commencing with Section 25920) to Division 15 of the Public Resources Code, to add Section 740.6 to the Public Utilities Code, and to add Section 257 to, and to add and repeal Section 5062 of, the Vehicle Code, relating to energy resources, and making an appropriation therefor.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 18032.5 is added to the Health and Safety Code, to read:

18032.5. (a) The Legislature hereby finds and declares all of the following:

(1) California's energy efficiency standards for new residential buildings have provided significant savings to homeowners and renters.

(2) As a result of past federal preemption of the field and the exemption of manufactured homes from building standards under California law, California's energy efficiency residential building standards have not been applied to manufactured housing.

(3) The Energy Policy Act of 1992 (P.L. 102-486) authorizes the Secretary of the United States Department of Housing and Urban Development to adopt regulations establishing thermal insulation and energy efficiency standards for manufactured housing. If the secretary has not issued, within one year after October 24, 1992, the date of the enactment of the act, final regulations that establish standards that take effect before January 1, 1995, states may establish specified energy efficiency standards for manufactured housing.

(4) The 1992–93 California Energy Plan, endorsed by the Governor, recommends that the federal government adopt significantly more stringent, cost-effective energy efficiency standards for manufactured housing, or, in the alternative, allow states to adopt these standards.

(5) It is in the interest of this state to participate in any federal rulemaking proceeding establishing energy efficiency standards for manufactured housing, and, in the absence of timely final federal regulations, it is in the interest of this state to adopt its own energy efficiency standards for manufactured housing as authorized under federal law.

(b) The Department of Housing and Community Development, in consultation with the State Energy Resources Conservation and Development Commission, shall develop and implement cost-effective energy efficiency standards for manufactured housing, to take effect before January 1, 1995. These standards shall include, but are not limited to, lighting, insulation, climate control systems, and other design and construction features that increase efficiency in energy use for manufactured housing. The standards shall be cost-effective when taken in their entirety, and when amortized over the economic life of the structure. The department shall have responsibility for enforcing the standards. The standards shall be developed in consultation with members of the manufactured housing industry.

(c) This section shall become operative only if the Secretary of the

United States Department of Housing and Urban Development does not issue, on or before October 24, 1993, final regulations that establish thermal insulation and energy efficiency standards for manufactured housing that take effect before January 1, 1995. If the secretary does issue those final regulations, 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. Chapter 10.7 (commencing with Section 25920) is added to Division 15 of the Public Resources Code, to read:

CHAPTER 10.7. ENERGY EFFICIENT MORTGAGES

25920. The Legislature hereby finds and declares all of the following:

(a) The Energy Policy Act of 1992 (P.L. 102-486) directs the federal government to establish an energy efficient mortgage pilot program in five states to promote the purchase of existing energy efficient residential buildings and the installation of cost-effective improvements in existing residential buildings. The act also establishes a training program regarding the benefits of energy efficient mortgages and the operation of a pilot program, and authorizes the appropriation of federal funds to carry out those pilot programs and training programs.

(b) The high cost of housing is a critical problem in California, as less than one-half of California households can afford to buy a median-priced home.

(c) Reducing a home's monthly energy costs through energy efficiency improvements can make the home more affordable by increasing the homeowner's disposable income, which allows the homeowner to qualify for a higher mortgage and increases the number of Californians that can afford to buy a home.

(d) More than 60 percent of California homes were built before energy standards were adopted for new homes in the mid-1970s. These older homes are disproportionate energy consumers. The average home built in 1968 consumes twice the energy of a home built after 1983.

(e) A wide range of cost-effective energy efficiency improvements can be made to homes, resulting in lower energy use, lower utility energy bills, reduced societal demand for new energy sources, and reduced environmental degradation related to the generation of energy.

(f) Energy efficient mortgages provide money to fund energy efficiency improvements in residential homes, resulting in lower energy costs to the homeowner. Energy efficient mortgages also increase the number of Californians, particularly of low- and moderate-income, who can qualify for home financing, because the incremental increase in monthly mortgage cost is more than offset by lower monthly energy bills.

(g) Although energy efficient mortgages have been available for a number of years, they are rarely used because borrowers are unaware of their existence or of the benefits that they can provide, and most lenders and real estate licensees are unaware of, or unfamiliar with, the energy efficient mortgage.

(h) The 1992–93 California Energy Plan, endorsed by the Governor, recommends that the state support the marketing of mortgages that account for energy efficiency.

25921. The Legislature further finds and declares all of the following:

(a) It is in the interest of the people of this state that energy efficient mortgages be marketed and made available statewide, to increase awareness of their availability and their benefits.

(b) It is also in the interest of the state to seek to participate in federal government programs in this area, including energy efficient mortgage pilot and related training programs, and to seek federal funding to promote the use of energy efficient mortgages.

25922. The commission shall develop and implement a pilot program to determine how best to inform homeowners and potential homeowners of the availability, methods, and benefits of obtaining an energy efficient mortgage.

25923. The pilot program shall be designed to do all of the following:

(a) Meet the eligibility requirements of the energy efficient mortgage pilot program and training program established by the federal government pursuant to the Energy Policy Act of 1992 (P.L. 102-486) if this state is chosen to participate in the federal government's pilot program.

(b) Familiarize mortgage lenders, real estate licensees, home appraisers, home inspectors, energy utilities, energy service providers, and other participants with the features of the energy efficient mortgage and the benefits that can result from its use.

(c) Identify and implement effective methods of informing the public of the availability and benefits of the energy efficient mortgage.

(d) Develop methods of incorporating the use of the energy efficient mortgage into the regular business practices of mortgage lenders, real estate licensees, home appraisers, home inspectors, and other persons involved in the sale, refinancing, and remodeling of residential real estate.

(e) Encourage the use of a home energy rating analysis as a precondition to qualification for an energy efficient mortgage.

(f) Identify obstacles to the use of energy efficient mortgages and recommend ways to mitigate or eliminate the obstacles.

25924. (a) The commission shall convene one or more workshops with mortgage lenders, real estate licensees, home appraisers, home inspectors, energy utilities, energy service providers, and other appropriate parties to solicit recommendations on the implementation of the pilot program. The commission shall

encourage those parties to participate in the pilot program.

(b) The commission shall consult, as needed, with the State Banking Department, the Department of Savings and Loan, the Department of Real Estate, and the Department of Housing and Community Development in carrying out this chapter.

25925. The commission shall report to the Governor and the Legislature upon the completion of the pilot program. Copies of the report shall also be sent to the appropriate policy committees of the Legislature, including the housing committees of the Senate and the Assembly. The report shall include all of the following:

(a) Results of the pilot program, including, but not limited to, the number of energy efficient mortgages used and the number of people who qualified for home financing as a result of using an energy efficient mortgage.

(b) Obstacles to the use of energy efficient mortgages.

(c) Recommendations on how to improve the use and effectiveness of energy efficient mortgages.

SEC. 3. Section 740.6 is added to the Public Utilities Code, to read:

740.6. (a) The commission may authorize investor-owned gas and electric utilities to match grants provided to nonprofit agencies and local governments to participate in the Department of Economic Opportunity's pilot program to identify and counsel low-income individuals and group facilities that are eligible to receive rate discounts and weatherization benefits offered by those utilities. The amount of utility matching funds for the pilot program shall be limited to a statewide total of three hundred thousand dollars ($300,000). The commission shall require that utility expenditures for those purposes be recoverable in rates.

(b) If federal funds become available for low-income energy assistance or weatherization programs that may be secured with matching funds from states or utilities, the commission may authorize investor-owned gas and electric utilities to match those federal funds, and shall require that utility expenditures for those purposes be recoverable in rates.

SEC. 4. Section 257 is added to the Vehicle Code, to read:

257. A "clean fuel vehicle" means any passenger or commercial vehicle or pickup truck that is fueled by alternative fuels, as defined in Section 301 of the Energy Policy Act of 1992 (P.L. 102-486), and produces emissions which do not exceed whichever of the following standards, as defined by regulations of the State Air Resources Board in effect on January 1, 1994, is applicable to the model year of the vehicle:

(a) For a vehicle of the 1994 to 1996, inclusive, model year, the emission standard applicable to a transitional low-emission vehicle.

(b) For a vehicle of the 1997 model year, the emission standard applicable to a low-emission vehicle.

(c) For a vehicle of the 1998 to 2000, inclusive, model year, the emission standard applicable to an ultra low-emission vehicle.

SEC. 5. Section 5062 is added to the Vehicle Code, to read:

5062. (a) This section shall be known, and may be cited, as the Rosenthal Blue Sky License Plate Program.

(b) The Legislature hereby finds and declares that CALSTART is a California nonprofit consortium dedicated to the development and commercialization of advanced transportation technologies, including clean fuel vehicles, and that CALSTART should be authorized to undertake a special environmental "Blue Sky" license plate program to facilitate the purchase and use of clean fuel vehicles in the state.

(c) CALSTART may, with the approval of the department, participate in this special interest license plate program.

(d) CALSTART may, with the approval of the department, develop a distinctive design, in conformance with Section 5060, for inclusion on a special interest license plate. The license plate shall be known as the Blue Sky license plate and shall signify that the vehicle to which it is assigned is a clean fuel vehicle.

(e) Any person who owns or leases a clean fuel vehicle, as defined in Section 257, and who applies for an original or renewal registration of that vehicle, may apply, through CALSTART, for a set of Blue Sky license plates in lieu of regular license plates.

(f) The Blue Sky license plate is subject to Sections 5106 and 5108. The revenues derived from the sale of the license plates shall be deposited in the California Environmental License Plate Fund, after the department has deducted its costs for developing and administering the program.

(g) Notwithstanding Section 5060, a Blue Sky license plate may, upon application of the holder, be transferred to another clean fuel vehicle. If the vehicle to which transfer is sought is not a clean fuel vehicle, the plates shall be surrendered to the department.

(h) CALSTART, in coordination with the State Air Resources Board, the State Energy Resources Conservation and Development Commission, and the Public Utilities Commission, shall undertake efforts to publicize the availability of Blue Sky license plates.

(i) Notwithstanding Section 5060, CALSTART shall have 12 months, commencing November 1, 1995, to receive the required applications and to notify the department that the requisite number of applications have been received. If, after that 12-month period, 5,000 applications have not been received, CALSTART shall immediately notify the department and refund to all applicants any fees or deposits which have been collected.

(j) If, on November 1, 1996, the department has not received a notice from CALSTART pursuant to subdivision (i) or if, on or before that date CALSTART notifies the department that the requisite number of applications have not been received, the department shall provide that information to the Secretary of State, and this section shall become inoperative upon receipt of that information by the Secretary of State, and 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. 6. Notwithstanding Sections 13340 and 16361 of the Government Code, and to the extent permitted by federal law, the sum of seventeen million seven hundred seventy-five thousand dollars ($17,775,000) 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 consisting of federal oil overcharge funds available pursuant to court judgments or federal agency orders, is hereby appropriated, for expenditure in the 1993–94 fiscal year as follows:

(a) The sum of one hundred thousand dollars ($100,000) to the Department of Justice for a video arraignment system for the City of Santa Ana.

(b) The sum of two hundred fifty thousand dollars ($250,000) to the Department of Parks and Recreation for development of an energy efficient transportation and energy efficient water delivery system for the Colonel Allensworth State Historic Park.

(c) The sum of three million one hundred fifty-three thousand dollars ($3,153,000) to the Department of Transportation for grants as follows:

(1) The sum of five hundred thousand dollars ($500,000) to the City of Coronado for an automatic vehicle identification system on the San Diego-Coronado Bridge.

(2) The sum of one hundred fifty thousand dollars ($150,000) to the City of Torrance for a telecommuting center.

(3) The sum of one hundred thousand dollars ($100,000) to the City of Vallejo for bike lane construction.

(4) The sum of one hundred thousand dollars ($100,000) to the County of Yolo for improvement of the Russell Boulevard Bike Path.

(5) The sum of thirty thousand dollars ($30,000) to the City of Lompoc for a bikeway and pedestrian project.

(6) The sum of one hundred thousand dollars ($100,000) to the City of Buenaventura for acquisition of the Right-of-Way for the Ventura River Bike Trail.

(7) The sum of two hundred thousand dollars ($200,000) to the City of Pacifica for construction of the frontage road bypass of Highway 1.

(8) The sum of seventy-five thousand dollars ($75,000) to the City of Stockton for extension of the Calaveras Bikeway.

(9) The sum of one hundred fifty thousand dollars ($150,000) to the City of Santa Clarita for an intersection improvement in Bouquet Canyon.

(10) The sum of fifty thousand dollars ($50,000) to the City of Gustine for a bike route system.

(11) The sum of twenty-three thousand dollars ($23,000) to the City of Santa Barbara for traffic signal retiming.

(12) The sum of one hundred twenty-five thousand dollars

($125,000) to the County of Stanislaus for a traffic signal project in the city of Turlock.

(13) The sum of two hundred fifty thousand dollars ($250,000) to the City of San Diego for a fuel efficient traffic management system on Clairemont Mesa Boulevard.

(14) The sum of one hundred twenty-five thousand dollars ($125,000) to the County of San Bernardino for signal synchronization.

(15) The sum of seventy-five thousand dollars ($75,000) to the City of Realto for metrolink station development.

(16) The sum of two hundred thousand dollars ($200,000) to the County of Contra Costa for planning studies for rail and bus transit access, transit connections, and transfer points to the east county area.

(17) The sum of three hundred thousand dollars ($300,000) to the City of Sacramento for a downtown intermodal passenger terminal.

(18) The sum of four hundred thousand dollars ($400,000) to the City of Vallejo for synchronization of signals on the Georgia Street corridor.

(19) The sum of two hundred thousand dollars ($200,000) to the Simi Valley Transportation Management Association for a telecommuting demonstration project.

(d) The sum of two hundred thousand dollars ($200,000) to the Department of Economic Opportunity for an energy crisis intervention program.

(e) The sum of thirty thousand dollars ($30,000) to the California Department of Housing and Community Development for energy efficient mobile homes.

(f) The sum of thirty thousand dollars ($30,000) to the State Energy Resources Conservation and Development Commission for energy efficient mobile homes.

(g) (1) The sum of three hundred thousand dollars ($300,000) to the Department of Economic Opportunity for grants to nonprofit agencies and local governments that participate in the department's Low-Income Home Energy Assistance Program, and Weatherization Assistance Program, to be used in a pilot program to identify and counsel low-income individuals and group facilities that are eligible to receive rate discounts and weatherization benefits offered by gas and electric utilities.

(2) Grant recipients shall coordinate their activities with the Public Utilities Commission, and gas and electric utilities, to identify low-income ratepayers and group facilities that qualify under the commission's Low-Income Ratepayer Assistance program and Low-Income Weatherization program.

(3) Grant recipients shall also coordinate their activities with municipal energy utilities that offer special rates or benefits to low-income ratepayers.

(4) The department, in consultation with the Public Utilities Commission, shall report to the Legislature upon completion of the

pilot program on the results of the joint efforts by the department, the commission, and gas and electric utilities to increase the number of qualified low-income ratepayers participating in utility low-income energy assistance and weatherization programs.

(5) The money appropriated by 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.

(h) The sum of one hundred fifty thousand dollars ($150,000) to the State Energy Resources Conservation and Development Commission to support the commission's intervenor award program, administered by the commisson's public advisor, to provide intervenors facing financial hardship with reasonable awards to pay for the costs of participating in commission proceedings.

(i) The sum of two hundred thousand dollars ($200,000) to the State Energy Resources Conservation and Development Commission to develop and implement a pilot program to promote the use of energy efficient mortgages pursuant to Chapter 10.7 (commencing with Section 25920) of Division 15 of the Public Resources Code.

(j) The sum of three million eight hundred two thousand dollars ($3,802,000) to the State Energy Resources Conservation and Development Commission for grants as follows:

(1) The sum of one hundred thousand dollars ($100,000) to CALSTART for clean fuels license plates pursuant to Section 5062 of the Vehicle Code.

(2) The sum of two hundred fifty thousand dollars ($250,000) to the Berkeley Gateway Transportation Management Agency for an intracity shuttle.

(3) The sum of fifty-five thousand dollars ($55,000) to the City of Chula Vista for a fuel retrofit program.

(4) The sum of fifty thousand dollars ($50,000) to the City of Chula Vista for an aluminum air battery development project.

(5) The sum of one hundred thousand dollars ($100,000) to the City of Chula Vista for a CO_2 Reduction Pilot Program.

(6) The sum of seventy-five thousand dollars ($75,000) to the City of Lakewood for improvement of heating, ventilation, and air-conditioning systems at city facilities.

(7) The sum of one million dollars ($1,000,000) to Lake County for construction of pipeline for the Geyser Effluent Injection Project.

(8) The sum of one hundred fifty thousand dollars ($150,000) to the City of Long Beach for a city hall interior lighting retrofit project.

(9) The sum of two hundred fifty thousand dollars ($250,000) to CALSTART for electric and hybrid electric bus development programs.

(10) The sum of eighty-two thousand dollars ($82,000) to the City of Santa Barbara for an electric shuttle.

(11) The sum of eighty thousand dollars ($80,000) to the City of Oakdale for alternative fuel or electric minivans.

(12) The sum of ten thousand dollars ($10,000) to the County of Mariposa for improvement of the heating, ventilation, and air-conditioning system.

(13) The sum of sixty thousand dollars ($60,000) to the City of Garden Grove for energy efficient lighting for city facilities.

(14) The sum of ten thousand dollars ($10,000) to the Riverside Transit Agency for conversion of service vehicles to propane fuel.

(15) The sum of one hundred thousand dollars ($100,000) to the Riverside Transit Agency for alternative fuel or electric minibuses.

(16) The sum of forty thousand dollars ($40,000) to the Riverside Transit Agency for computer equipment for transit service planning.

(17) The sum of twenty-five thousand dollars ($25,000) to the City of Woodlake for energy efficient conversion of a public pool chlorination system.

(18) The sum of two hundred sixty-five thousand dollars ($265,000) to the City of San Jose for energy efficient lighting.

(19) The sum of four hundred thousand dollars ($400,000) to the City of Long Beach for SERRF plant performance improvements.

(20) The sum of one hundred thousand dollars ($100,000) to the County of Merced for energy efficient ballpark lights.

(21) The sum of four hundred thousand dollars ($400,000) to the U.C. Riverside, Center for Environmental Research and Technology, for energy technology demonstration projects.

(22) The sum of two hundred thousand dollars ($200,000) to the Alameda Congestion Management Agency for promotion of commuter alternatives and expansion of existing congestion management program.

(k) The sum of eight million sixty thousand dollars ($8,060,000) to the State Energy Resources Conservation and Development Commission to be allocated as follows:

(1) The sum of one million five hundred thousand dollars ($1,500,000) for the transportation energy technology advancement program.

(2) The sum of five hundred thousand dollars ($500,000) for the targeted research and development demonstration program.

(3) The sum of one million seven hundred fifty thousand dollars ($1,750,000) for the energy technology advancement program.

(4) The sum of five hundred thousand dollars ($500,000) for the energy partnership loan program.

(5) The sum of five hundred thousand dollars ($500,000) for the heavy duty truck demonstration program.

(6) The sum of one million dollars ($1,000,000) for the light- and medium-duty electric vehicle demonstration program.

(7) The sum of five hundred thousand dollars ($500,000) for the natural gas light duty vehicle demonstration program.

(8) The sum of five hundred thousand dollars ($500,000) for the small school district loan program.

(9) The sum of five hundred thousand dollars ($500,000) for alternative transportation fuels for Yosemite National Park.

(10) The sum of two hundred fifty thousand dollars ($250,000) for conservation inventory measurement and resources plan integration.

(11) The sum of two hundred fifty thousand dollars ($250,000) for building efficiency monitoring and measurement.

(12) The sum of three hundred ten thousand dollars ($310,000) for transportation demand management measures.

(*l*) The sum of one million dollars ($1,000,000) to the State Energy Resources Conservation and Development Commission to provide funding for the San Diego ITER project.

(m) The sum of five hundred thousand dollars ($500,000) to the Office of Planning and Research for the small business energy assistance program.

SEC. 7. Unless there are sufficient existing resources available to the State Energy Resources Conservation and Development Commission to make the grants specified in this section, in which case the commission shall fund those grants from those existing resources, the amount appropriated in subdivision (k) of Section 6 of this act shall be reduced by an amount equal to the difference between three hundred twenty thousand dollars ($320,000) and the amount available from those existing resources, and that amount is hereby appropriated to the commission, for the 1993–94 fiscal year only, to make the following grants:

(1) City Hall Interior Lighting Retrofit project for the City of Long Beach in the amount of one hundred fifty thousand dollars ($150,000).

(2) Improvements of heating, ventilation, and air-conditioning systems for the County of Mariposa in the amount of ten thousand dollars ($10,000).

(3) Improvements of heating, ventilation, and air-conditioning systems at city facilities for the City of Lakewood in the amount of seventy-five thousand dollars ($75,000).

(4) Energy efficient lighting for city facilities for the City of Garden Grove in the amount of sixty thousand dollars ($60,000).

(5) Energy efficient conversion of public pool chlorination system for the City of Woodlake in the amount of twenty-five thousand dollars ($25,000).

SEC. 8. Money in the Federal Trust Fund, received by the state from federal oil overcharge funds in the Petroleum Violation Escrow Account, which is available for appropriation during the 1993–94 fiscal year, shall be used, upon appropriation, in accordance with subdivision (b) of Section 4 of Chapter 1426 of the Statutes of 1988, which declared the intent of the Legislature to appropriate one-half of each future disbursement received by the state from the account to complete the implementation of a one hundred million dollar ($100,000,000) Katz Safe Schoolbus Clean Fuel Efficiency Demonstration Program (Part 10.7 (commencing with Section 17910) of the Education Code).

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 1160

An act to amend Sections 21382, 21382.2, 21382.4, 21385, and 21385.7 of, and to add Sections 21382.5 and 21388 to, the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 21382 of the Government Code is amended to read:

21382. (a) If the death benefit provided by Section 21361 is payable on account of a member's death which occurs under circumstances other than those described in subdivision (a) (5) of Section 21360, or if an allowance under Section 21365.5 is payable, the payment pursuant to subdivision (b) shall be made, in the following order of priority:

(1) The surviving wife or surviving husband of the member, who has the care of unmarried children, including stepchildren, of the member who are under 22 years of age, or are incapacitated because of disability which began before and has continued without interruption after attainment of that age.

(2) The guardian or conservator of surviving unmarried children, including stepchildren, of the member who are under 22 years of age or are so incapacitated.

(3) The surviving wife or surviving husband of the member, who does not qualify under paragraph (1).

(4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21361 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21365.5, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the state, shall be paid:

(1) A surviving spouse who was either continuously married to the member for at least one year prior to death, or was married to the member prior to the occurrence of the injury or onset of the

illness which resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, shall be paid three hundred sixty dollars ($360) if there is one such child or four hundred thirty dollars ($430) per month if there are two or more such children. If there also are such children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, which is in excess of one hundred eighty dollars ($180) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.

(2) If there is no such surviving spouse, or if the surviving spouse dies or remarries, and if there are unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, or if there are such children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid one hundred eighty dollars ($180) per month.

(B) If there are two children, the children shall be paid three hundred sixty dollars ($360) per month divided equally between them.

(C) If there are three or more children, the children shall be paid four hundred thirty dollars ($430) per month divided equally among them.

(3) A surviving spouse who has attained or attains the age of 62 years and, with respect to that surviving spouse, who was either continuously married to the member for at least one year prior to death, or who was married to the member prior to the occurrence of the injury or onset of the illness which resulted in death and has not remarried subsequent to the member's death, shall be paid one hundred eighty dollars ($180) per month. No allowance shall be paid under this paragraph, while the surviving spouse is receiving an allowance under paragraph (1), or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be seventy dollars ($70) per month while an allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse or surviving child who qualifies for a 1959 survivor allowance, or if such surviving spouse dies or remarries and there is no such surviving child, or if the surviving spouse dies or remarries and the children die or marry or, if not incapacitated, reach age 22, each of the member's dependent parents who has attained or attains the age of 62, and who received at least one-half of his or her support from the member at the time of the member's death, shall be paid one hundred eighty dollars ($180) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with him in a regular parent-child relationship at the time of his death.

(d) The amendments to this section enacted at the 1971 Regular Session of the Legislature shall apply only to 1959 survivor allowances payable April 1, 1972, and thereafter.

(e) This section shall not apply to any member in the employ of an employer not subject to this section on January 1, 1994.

SEC. 2. Section 21382.2 of the Government Code is amended to read:

21382.2. (a) In lieu of benefits provided in Section 21382, if the death benefit provided by Section 21361 is payable on account of a state member's death which occurs under circumstances other than those described in subdivision (a) (5) of Section 21360, or if an allowance under Section 21365.5 is payable, the payment pursuant to subdivision (b) shall be made, in the following order of priority:

(1) The surviving wife or surviving husband of the member, who has the care of unmarried children, including stepchildren, of the member who are under 22 years of age, or are incapacitated because of disability which began before and has continued without interruption after attainment of that age.

(2) The guardian of surviving unmarried children, including stepchildren, of the member who are under 22 years of age or are so incapacitated.

(3) The surviving wife or surviving husband of the member, who does not qualify under paragraph (1).

(4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21361 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21365.5, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the state, shall be paid:

(1) A surviving spouse who was either continuously married to the member for at least one year prior to death, or was married to the member prior to the occurrence of the injury or onset of the illness which resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, shall be paid four hundred fifty dollars ($450) if there is one such child or five hundred thirty-eight dollars ($538) per month if there are two or more such children. If there also are such children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, which is in excess of two hundred twenty-five dollars ($225) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.

(2) If there is no such surviving spouse, or if the surviving spouse dies or remarries, and if there are unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, or if there are such children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid two hundred twenty-five dollars ($225) per month.

(B) If there are two children, the children shall be paid four hundred fifty dollars ($450) per month divided equally between them.

(C) If there are three or more children, the children shall be paid five hundred thirty-eight dollars ($538) per month divided equally among them.

(3) A surviving spouse who has attained or attains the age of 62 years and, with respect to that surviving spouse, who was either continuously married to the member for at least one year prior to death, or was married to the member prior to the occurrence of the injury or onset of the illness which resulted in death and has not remarried subsequent to the member's death, shall be paid two hundred twenty-five dollars ($225) per month. No allowance shall be paid under this paragraph, while the surviving spouse is receiving an allowance under paragraph (1), or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be eighty-eight dollars ($88) per month while an allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse or surviving child who qualifies for a 1959 survivor allowance, or if such surviving spouse dies or remarries and there is no such surviving child, or if the surviving spouse dies or remarries and the children die or marry or, if not incapacitated, reach age 22, each of the member's dependent parents who has attained or attains the age of 62, and who received at least one-half of his or her support from the member at the time of the member's death, shall be paid two hundred twenty-five dollars ($225) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with him or her in a regular parent-child relationship at the time of his or her death.

(d) This section shall apply to beneficiaries receiving 1959 survivor allowances on July 1, 1975, as well as to beneficiaries with respect to the death of a state member occurring on or after July 1, 1975.

(e) This section shall apply, with respect to benefits payable on and after July 1, 1981, to all members employed by a school employer, and school safety members employed with a school district or community college district as defined in subdivision (i) of Section 20009.1, except that it shall not apply, without contract amendment, with respect to safety members who became members after July 1, 1981. All assets and liabilities of all school employers, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of all miscellaneous members employed by a school employer and all safety members who are members on July 1, 1981.

(f) This section shall not apply to any member in the employ of

an employer not subject to this section on January 1, 1994.

A contracting agency may, by amending its contract, elect to make this section applicable to local members employed by the agency.

SEC. 3. Section 21382.4 of the Government Code is amended to read:

21382.4. (a) In lieu of benefits provided in Section 21382 or Section 21382.2, if the death benefit provided by Section 21361 is payable on account of a state member's death which occurs under circumstances other than those described in paragraph (5) of subdivision (a) of Section 21360, or if an allowance under Section 21365.5 is payable, the payment pursuant to subdivision (b) shall be made in the following order of priority:

(1) The surviving wife or surviving husband of the member, who has the care of unmarried children, including stepchildren, of the member who are under 22 years of age, or are incapacitated because of disability which began before and has continued without interruption after attainment of that age.

(2) The guardian of surviving unmarried children, including stepchildren, of the member who are under 22 years of age or are so incapacitated.

(3) The surviving wife or surviving husband of the member, who does not qualify under paragraph (1).

(4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21361 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21365.5, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the state, shall be paid:

(1) A surviving spouse who was either continuously married to the member for at least one year prior to death, or who was married to the member prior to the occurrence of the injury or onset of the illness which resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, shall be paid seven hundred dollars ($700) per month if there is one such child, or eight hundred forty dollars ($840) per month if there are two or more such children. If there also are such children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, which is in excess of three hundred fifty dollars ($350) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.

(2) If there is no such surviving spouse, or if the surviving spouse dies or remarries, and if there are unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, or if there are such children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid three hundred

fifty dollars ($350) per month.

(B) If there are two children, the children shall be paid seven hundred dollars ($700) per month divided equally between them.

(C) If there are three or more children, the children shall be paid eight hundred forty dollars ($840) per month divided equally among them.

(3) A surviving spouse who has attained or attains the age of 62 years, and, with respect to that surviving spouse, who was either continuously married to the member for at least one year prior to death, or who was married to the member prior to the occurrence of the injury or onset of the illness which resulted in death and has not remarried subsequent to the member's death, shall be paid three hundred fifty dollars ($350) per month. No allowance shall be paid under paragraph (1), or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be one hundred forty dollars ($140) per month while an allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse or surviving child who qualifies for the 1959 survivor allowance, or if the surviving spouse dies or remarries and there is no such surviving child, or if the surviving spouse dies or remarries and the children die or marry or, if not incapacitated, reach 22 years of age, each of the member's dependent parents who has attained or attains the age of 62 years, and who received at least one-half of his or her support from the member at the time of the member's death, shall be paid three hundred fifty dollars ($350) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with the member in a regular parent-child relationship at the time of the death of the member.

(d) This section shall apply to beneficiaries of state members whose death occurred before January 1, 1985. Where a surviving spouse attained age 62 prior to January 1, 1987, entitlement shall exist retroactive to January 1, 1985, or to his or her 62nd birthday, whichever is later. All assets and liabilities of all state agencies and their employees on account of benefits provided to beneficiaries specified in this subdivision shall be pooled into a single account. The board shall transfer from the reserve for 1959 survivor contributions retained in the retirement fund, an amount sufficient to pay the cost of the increased benefits provided by this subdivision for beneficiaries of members who died on or before December 31, 1984.

(e) This section shall not apply to beneficiaries with respect to the death of a state member, except as provided in subdivision (i), occurring on or after January 1, 1985, unless provided for in a memorandum of understanding reached pursuant to Section 3517.5, or authorized by the Director of Personnel Administration for classifications of state employees who are excluded from, or not subject to, collective bargaining. The memorandum of understanding adopting this section shall be controlling without further legislative action, except that if those provisions of a

memorandum of understanding require the expenditure of funds, those provisions shall not become effective unless approved by the Legislature as provided by law.

(f) This section shall apply, with respect to benefits payable on and after January 1, 1985, to school members and to school safety members, as defined in Section 20019.6. All assets and liabilities of all school employers, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of school members employed by a school employer.

(g) This section shall apply to members of a contracting agency which, by, in its original contract, or amending its contract, first elects effective on or after January 1, 1985, to make this article applicable to local members employed by the agency. On and after January 1, 1985, contracting agencies already subject to Section 21382 or Section 21382.2 may elect by contract amendment to be subject to this section. All assets and liabilities of all contracting agencies subject to this section, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of members employed by a contracting agency which is subject to this section. Any public agency first contracting with the board on and after January 1, 1994, or any contracting agency amending its contract to remove exclusions of member classifications on or after January 1, 1994, which has not, pursuant to Section 218 of the Social Security Act (42 U.S.C. Sec. 418), entered into an agreement with the federal government for the coverage of its employees under the federal system shall be subject to this section.

(h) The rate of contribution of an employer subject to this section shall be figured using the term insurance valuation method. If a contracting agency which is subject to this section has a surplus in its 1959 survivor benefit account as of the date the contracting agency becomes subject to this section, the surplus shall be applied to reduce its rate of contribution. If a contracting agency which is subject to this section has a deficit in its 1959 survivor benefit account as of the date the contracting agency becomes subject to this section, its rate of contribution shall be increased until the deficit is paid.

(i) This section shall not apply to beneficiaries with respect to the death of a state member employed by the California State University occurring on or after January 1, 1988, unless provided for in a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, or authorized by the Trustees of the California State University for employees excluded from collective bargaining. The memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall

not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 4. Section 21382.5 is added to the Government Code, to read:

21382.5. (a) In lieu of benefits provided in Section 21382, 21382.2, or 21382.4, if the death benefit provided by Section 21361 is payable on account of a local member's death that occurs under circumstances other than those described in subparagraph (F) of paragraph (1) of subdivision (a) of Section 21360, or if an allowance under Section 21365.5 is payable, the payment pursuant to subdivision (b) shall be made in the following order of priority:

(1) The surviving spouse of the member, who has the care of unmarried children, including stepchildren, of the member who are under 22 years of age, or are incapacitated because of disability which began before and has continued without interruption after the attainment of that age.

(2) The guardian of surviving unmarried children, including stepchildren, of the member who are 22 years of age or are so incapacitated.

(3) The surviving spouse of the member, who does not qualify under paragraph (1).

(4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21361 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21365.5, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the contracting agency, shall be paid:

(1) A surviving spouse who was married to the member prior to the occurrence of the injury or onset of the illness which resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, shall be paid one thousand nine hundred dollars ($1,900) per month if there is one child or two thousand two hundred eighty dollars ($2,280) per month if there are two or more children. If there also are children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, which is in excess of nine hundred fifty dollars ($950) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.

(2) If there is no surviving spouse, or if the surviving spouse dies or remarries, and if there are unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, or if there are children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid nine hundred fifty dollars ($950) per month.

(B) If there are two children, the children shall be paid one thousand nine hundred dollars ($1,900) per month divided equally between them.

(C) If there are three or more children, the children shall be paid two thousand two hundred eighty dollars ($2,280) per month divided equally among them.

(3) A surviving spouse who has attained or attains the age of 60 years, and who was married to the member prior to the occurrence of the injury or onset of the illness which resulted in death and has not remarried subsequent to the member's death, shall be paid nine hundred fifty dollars ($950) per month. No allowance shall be paid under paragraph (1), or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be three hundred eighty dollars ($380) per month while an allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse or surviving child who qualifies for the 1959 survivor allowance, or if the surviving spouse dies or remarries and there is no surviving child, or if the surviving spouse dies or remarries and the children die or marry or, if not incapacitated, reach 22 years of age, each of the member's dependent parents who has attained or attains the age of 60 years, and who received at least one-half of his or her support from the member at the time of the member's death, shall be paid nine hundred fifty dollars ($950) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with the member in a regular parent-child relationship at the time for the death of the member.

(d) This section shall only apply to members of a contracting agency, which by amending its contract, first elects effective on or after January 1, 1994, to make this section applicable to local members employed by the agency. On and after January 1, 1994, contracting agencies already subject to Section 21382, 21382.2, or 21382.4 may elect by contract amendment to be subject to this section. Notwithstanding Section 21382.4, a public agency first contracting with the board on and after January 1, 1994, may include this section in its contract. All assets and liabilities of all contracting agencies subject to this section, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of members employed by a contracting agency which is subject to this section.

(e) The rate of contribution of an employer subject to this section shall be calculated using the term insurance valuation method. If a contracting agency which is subject to this section has a surplus in its 1959 survivor benefit account as of the date the contracting agency becomes subject to this section, the surplus shall be applied to reduce its rate of contribution. If a contracting agency which is subject to this section has a deficit in its 1959 survivor benefit account as of the date

the contracting agency becomes subject to this section, its rate of contribution shall be increased until the deficit is paid.

SEC. 5. Section 21385 of the Government Code is amended to read:

21385. This article shall not apply to any contracting agency nor to the employees of any contracting agency unless and until the agency elects to be subject to the provisions of this article by amendment to its contract made in the manner prescribed for approval of contracts, except that an election among the employees pursuant to Section 20457 is not required, or, in the case of contracts made after the time this article takes effect, by express provision in the contract making the contracting agency subject to the provisions of this article. Any public agency first contracting with the board on and after January 1, 1994, which has not, pursuant to Section 218 of the Social Security Act (42 U.S.C. Sec. 418), entered into an agreement with the federal government for the coverage of its employees under the federal system shall be subject to this section.

Except as provided in Section 21385.5, this article shall not in any event apply to employees of a contracting agency whose services are included in the federal system. Members who are employees of a contracting agency when the agency becomes subject to this article and whose services are not included in the federal system shall have the right to elect to be subject to this article, that election to be made in the manner, and within the time periods, specified in rules adopted by the board. Employees of that contracting agency becoming members thereafter shall be subject to this article without election.

SEC. 6. Section 21385.7 of the Government Code is amended to read:

21385.7. Notwithstanding anything to the contrary in Sections 21382, 21382.2, 21382.4, and 21382.5, this article shall apply to a surviving spouse of a local member who has attained or attains the age of 60 years and, with respect to that surviving spouse, who was either continuously married to the member for at least one year prior to death, or who was married to the member prior to the occurrence of the injury or onset of the illness which resulted in death and has not remarried subsequent to the member's death.

A contracting agency that is already subject to this article, on and after January 1, 1993, may elect to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts, except that an election among the employees shall not be required. In the case of contracts made on or after January 1, 1993, this section shall apply to members of a contracting agency which either expressly includes this section in its contract or subsequently elects to amend its contract to make this section applicable to local members employed by the agency.

SEC. 7. Section 21388 is added to the Government Code, to read:

21388. Notwithstanding any other provision of law, a local member may elect, within 90 days after the effective date of the

amended contract, to have the 1959 survivor allowance coverage under this article.

The effective date of coverage shall be the date that the member first became eligible for the 1959 survivor allowance. The member shall contribute two dollars ($2) for every month from the date of original eligibility.

This section shall not apply to any contracting agency unless and until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for the approval of contracts, except that an election among the employees is not required.

This section shall not apply to members while their services are included in the federal system.

CHAPTER 1161

An act to amend Section 14105.39 of the Welfare and Institutions Code, relating to, Medi-Cal, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 14105.39 of the Welfare and Institutions Code is amended to read:

14105.39. (a) (1) A manufacturer of a new single-source drug may request inclusion of its drug on the list of contract drugs pursuant to Section 14105.33 provided all of the following conditions are met:

(A) The request is made within 18 months of approval for marketing by the federal Food and Drug Administration.

(B) The manufacturer agrees to negotiate a contract with the department to provide the drug at the manufacturer's best price.

(C) (i) The manufacturer provides the department with necessary information, as specified by the department, in the request.

(ii) Notwithstanding clause (i), either of the following may be submitted by the manufacturer in lieu of the Summary Basis of Approval prepared by the federal Food and Drug Administration for that drug:

(I) The federal Food and Drug Administration's approval or approvable letter for the drug and federal Food and Drug Administration's approved labeling.

(II) The federal Food and Drug Administration's medical officers' and pharmacologists' reviews and the federal Food and Drug Administration's approved labeling.

(D) The department had concluded contracting for the therapeutic category in which the drug is included prior to approval of the drug by the federal Food and Drug Administration.

(2) Within 90 days from receipt of the request, the department shall evaluate the request using the criteria identified in subdivision (d), and shall submit the drug to the Medi-Cal Contract Drug Advisory Committee.

(b) Any petition for the addition to or deletion of a drug to the Medi-Cal drug formulary submitted prior to July 31, 1990, shall be deemed to be denied. A manufacturer who has submitted a petition deemed denied may request inclusion of that drug on the list of contract drugs provided all of the following conditions are met:

(1) The manufacturer agrees to negotiate for a contract with the department to provide the drug at the manufacturer's best price.

(2) The manufacturer provides the department with necessary information, as specified by the department, in the request.

(3) The manufacturer submits the request to the department prior to October 1, 1990.

(c) Any new drug designated as having an important therapeutic gain and approved for marketing by the federal Food and Drug Administration on or after July 31, 1990, shall immediately be included on the list of contract drugs for a period of three years provided that all of the following conditions are met:

(1) The manufacturer offers the department its best price.

(2) The drug is typically administered in an outpatient setting.

(3) The drug is prescribed only for the indications and usage specified in the federal Food and Drug Administration approved labeling.

(4) The drug is determined by the director to be safe, relative to other drugs in the same therapeutic category on the list of contract drugs.

(d) (1) To ensure that the health needs of Medi-Cal beneficiaries are met consistent with the intent of this chapter, the department shall, when evaluating a decision to execute a contract, and when evaluating drugs for retention on, addition to, or deletion from, the list of contract drugs, use all of the following criteria:

(A) The safety of the drug.

(B) The effectiveness of the drug.

(C) The essential need for the drug.

(D) The potential for misuse of the drug.

(E) The cost of the drug.

(2) The deficiency of a drug when measured by one of these criteria may be sufficient to support a decision that the drug should not be added or retained, or should be deleted from the list. However, the superiority of a drug under one criterion may be sufficient to warrant the addition or retention of the drug, notwithstanding a deficiency in another criterion.

(e) (1) A manufacturer of single-source drugs denied a contract pursuant to this section or Section 14105.33 or 14105.37, may file an

appeal of that decision with the director within 30 calendar days of the department's written decision.

(2) Within 30 calendar days of the manufacturer's appeal, the director shall request a recommendation regarding the appeal from the Medi-Cal Contract Drug Advisory Committee. The committee shall provide its recommendation in writing, within 30 calendar days of the director's request.

(3) The director shall issue a final decision on the appeal within 30 calendar days of the recommendation.

(f) Changes made to the list of contract drugs, including those made pursuant to Section 14105.37, shall become effective no sooner than 30 days after publication of the changes in provider bulletins.

(g) Changes made to the list of contract drugs under this or any other section are exempt from the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and shall not be subject to the review and approval of the Office of Administrative Law.

(h) 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. Section 14105.39 of the Welfare and Institutions Code is amended to read:

14105.39. (a) (1) A manufacturer of a new single-source drug may request inclusion of its drug on the list of contract drugs pursuant to Section 14105.33 provided all of the following conditions are met:

(A) The request is made within 18 months of approval for marketing by the federal Food and Drug Administration.

(B) The manufacturer agrees to negotiate a contract with the department to provide the drug at the manufacturer's best price.

(C) (i) The manufacturer provides the department with necessary information, as specified by the department, in the request.

(ii) Notwithstanding clause (i), either of the following may be submitted by the manufacturer in lieu of the Summary Basis of Approval prepared by the federal Food and Drug Administration for that drug:

(I) The federal Food and Drug Administration's approval or approvable letter for the drug and federal Food and Drug Administration's approved labeling.

(II) The federal Food and Drug Administration's medical officers' and pharmacologists' reviews and the federal Food and Drug Administration's approved labeling.

(D) The department had concluded contracting for the therapeutic category in which the drug is included prior to approval of the drug by the federal Food and Drug Administration.

(2) Within 90 days from receipt of the request, the department

shall evaluate the request using the criteria identified in subdivision (d), and shall submit the drug to the Medi-Cal Drug Advisory Committee.

(b) Any petition for the addition to or deletion of a drug to the Medi-Cal drug formulary submitted prior to July 31, 1990, shall be deemed to be denied. A manufacturer who has submitted a petition deemed denied may request inclusion of that drug on the list of contract drugs provided all of the following conditions are met:

(1) The manufacturer agrees to negotiate for a contract with the department to provide the drug at the manufacturer's best price.

(2) The manufacturer provides the department with necessary information, as specified by the department, in the request.

(3) The manufacturer submits the request to the department prior to October 1, 1990.

(c) Any new drug designated as having an important therapeutic gain and approved for marketing by the federal Food and Drug Administration on or after July 31, 1990, shall immediately be included on the list of contract drugs for a period of three years provided that all of the following conditions are met:

(1) The manufacturer offers the department its best price.

(2) The drug is typically administered in an outpatient setting.

(3) The drug is prescribed only for the indications and usage specified in the federal Food and Drug Administration approved labeling.

(4) The drug is determined by the director to be safe, relative to other drugs in the same therapeutic category on the list of contract drugs.

(d) (1) To ensure that the health needs of Medi-Cal beneficiaries are met consistent with the intent of this chapter, the department shall, when evaluating a decision to execute a contract, and when evaluating drugs for retention on, addition to, or deletion from, the list of contract drugs, use all of the following criteria:

(A) The safety of the drug.

(B) The effectiveness of the drug.

(C) The essential need for the drug.

(D) The potential for misuse of the drug.

(E) The cost of the drug, including both of the following:

(i) The cost per day or course of therapy taking into account the cure rate of the drug.

(ii) Whether the utilization of the drug product will reduce or avoid hospitalizations, skilled nursing, intermediate care facility costs, or outpatient services through any of the following:

(I) Reduction in the need for other drugs or therapies.

(II) Reduction in the rate of hospitalization or the need for other remedial health care services, or both.

(III) Reduction in the severity of adverse drug reactions or drug interactions, or both, resulting in a reduction of hospitalizations or outpatient services.

(IV) Reduction in diagnostic or other testing procedures

performed on an inpatient or outpatient basis necessitated by currently utilized therapies.

(2) The deficiency of a drug when measured by one of these criteria may be sufficient to support a decision that the drug should not be added or retained, or should be deleted from the list. However, the superiority of a drug under one criterion may be sufficient to warrant the addition or retention of the drug, notwithstanding a deficiency in another criterion.

(e) (1) A manufacturer of single-source drugs denied a contract pursuant to this section or Section 14105.33 or 14105.37, may file an appeal of that decision with the director within 30 calendar days of the department's written decision.

(2) Within 30 calendar days of the manufacturer's appeal, the director shall request a recommendation regarding the appeal from the Medi-Cal Contract Drug Advisory Committee. The committee shall provide its recommendation in writing, within 30 calendar days of the director's request.

(3) The director shall issue a final decision on the appeal within 30 calendar days of the recommendation.

(f) Changes made to the list of contract drugs, including those made pursuant to Section 14105.37, shall become effective no sooner than 30 days after publication of the changes in provider bulletins.

(g) Changes made to the list of contract drugs under this or any other section are exempt from the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and shall not be subject to the review and approval of the Office of Administrative Law.

(h) 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. 3. Section 2 of this bill incorporates amendments to Section 14105.39 of the Welfare and Institutions Code proposed by both this bill and SB 1180. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 14105.39 of the Welfare and Institutions Code, and (3) this bill is enacted after SB 1180, in which case Section 14105.39 of the Welfare and Institutions Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of SB 1180, at which time, Section 2 of this bill shall become operative.

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 the savings to the Medi-Cal program made by this act at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1162

An act to amend Section 14105.33 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 14105.33 of the Welfare and Institutions Code is amended to read:

14105.33. (a) The department may enter into contracts with manufacturers of single-source and multiple-source drugs, on a bid or nonbid basis, for drugs from each major therapeutic category, and shall maintain a list of those drugs for which contracts have been executed. It is the intent of the Legislature that, in the implementation of this section during the 1992–93 fiscal year, the director negotiate as aggressively as necessary to achieve the savings related to pharmaceutical contracting identified in the Budget Act of 1992 (Chapter 587 of the Statutes of 1992).

(b) (1) Contracts executed pursuant to this section shall be for the manufacturer's best price, as defined in Section 14105.31, which shall be specified in the contract, and subject to agreed upon price escalators, as defined in that section. The contracts shall provide for an equalization payment amount, as defined in Section 14105.31, to be remitted to the department quarterly. The department shall submit an invoice to each manufacturer for the equalization payment amount, based on utilization data from the department's prescription drug paid claims tapes. The drugs of any manufacturer with an existing contract that does not execute a contract amendment with the department within 60 days of the effective date of the amendment of this section enacted in 1992, pursuant to the requirements of this subdivision as amended, or a manufacturer without an existing contract that does not execute a contract with the department within 60 days of the effective date of this amendment of this section enacted in 1992, pursuant to the requirements of this subdivision as amended, shall be available to Medi-Cal beneficiaries only through prior authorization.

(2) The department shall provide for an annual audit of utilization data used to calculate the equalization amount to verify the accuracy of that data. The findings of the audit shall be documented in a written audit report to be made available to manufacturers within 90 days of receipt of the report from the auditor. Any manufacturer may receive a copy of the audit report upon written request. Contracts between the department and manufacturers shall provide for any equalization payment adjustments determined necessary pursuant to an audit.

(3) Utilization data used to determine an equalization payment

amount shall exclude data from both of the following:

(A) Health maintenance organizations, as defined in Section 300e(a) of Title 42 of the United States Code, including those organizations that contract under Section 1396b(m) of Title 42 of the United States Code.

(B) Capitated plans that include a prescription drug benefit in the capitated rate, and that have negotiated contracts for rebates or discounts with manufacturers.

(c) In order that Medi-Cal beneficiaries may have access to a comprehensive range of therapeutic agents, the department shall ensure that there is representation on the list of contract drugs in all major therapeutic categories. Except as provided in subdivision (a) of Section 14105.35, the department shall not be required to contract with all manufacturers who negotiate for a contract in a particular category. The department shall ensure that there is sufficient representation of single-source and multiple-source drugs, as appropriate, in each major therapeutic category.

(d) (1) The department shall select the therapeutic categories to be included on the list of contract drugs, and the order in which it seeks contracts for those categories. The department may establish different contracting schedules for single-source and multiple-source drugs within a given therapeutic category.

(2) The department shall make every attempt to complete the initial contracting process for each major therapeutic category by January 1, 1997.

(e) (1) In order to fully implement subdivision (d), the department shall, to the extent necessary, negotiate or renegotiate contracts to ensure there are as many single-source drugs within each therapeutic category or subcategory as the department determines necessary to meet the health needs of the Medi-Cal population. The department may determine in selected therapeutic categories or subcategories that no single-source drugs are necessary because there are currently sufficient multiple-source drugs in the therapeutic category or subcategory on the list of contract drugs to meet the health needs of the Medi-Cal population. However, in no event shall a beneficiary be denied continued use of a drug which is part of a prescribed therapy in effect as of September 2, 1992, until the prescribed therapy is no longer prescribed.

(2) In the development of decisions by the department on the required number of single-source drugs in a therapeutic category or subcategory, and the relative therapeutic merits of each drug in a therapeutic category or subcategory, the department shall consult with the Medi-Cal Contract Drug Advisory Committee. The committee members shall communicate their comments and recommendations to the department within 10 business days of a request for consultation, and shall disclose any associations with pharmaceutical manufacturers or any remuneration from pharmaceutical manufacturers.

(3) In order to expedite implementation of paragraph (1), the

requirements of Sections 14105.37, 14105.38, subdivisions (a), (c), (e), and (f) of Sections 14105.39, 14105.4, and 14105.405 are waived for the purposes of this section until January 1, 1994.

(f) In order to achieve maximum cost savings, the Legislature declares that an expedited process for contracts under this section is necessary. Therefore, contracts entered into on a nonbid basis shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(g) In no event shall a beneficiary be denied continued use of a drug that is part of a prescribed therapy in effect as of September 2, 1992, until the prescribed therapy is no longer prescribed.

(h) Contracts executed pursuant to this section shall be confidential and shall be exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(i) The department shall provide individual notice to Medi-Cal beneficiaries at least 60 calendar days prior to the effective date of the deletion or suspension of any drug from the list of contract drugs. The notice shall include a description of the beneficiary's right to a fair hearing and shall encourage the beneficiary to consult a physician to determine if an appropriate substitute medication is available from Medi-Cal.

(j) In carrying out the provisions of this section, the department may contract either directly, or through the fiscal intermediary, for pharmacy consultant staff necessary to initially accomplish the treatment authorization request reviews. This authority shall extend for a maximum of 18 months from the date of the initial contract.

(k) 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. Section 14105.33 of the Welfare and Institutions Code is amended to read:

14105.33. (a) The department may enter into contracts with manufacturers of single-source and multiple-source drugs, on a bid or nonbid basis, for drugs from each major therapeutic category, and shall maintain a list of those drugs for which contracts have been executed. It is the intent of the Legislature that, in the implementation of this section during the 1992–93 fiscal year, the director negotiate as aggressively as necessary to achieve the savings related to pharmaceutical contracting identified in the Budget Act of 1992 (Chapter 587 of the Statutes of 1992).

(b) (1) Contracts executed pursuant to this section shall be for the manufacturer's best price, as defined in Section 14105.31, which shall be specified in the contract, and subject to agreed upon price escalators, as defined in that section. The contracts shall provide for an equalization payment amount, as defined in Section 14105.31, to be remitted to the department quarterly. The department shall submit an invoice to each manufacturer for the equalization payment amount, based on utilization data from the department's

prescription drug paid claims tapes. The drugs of any manufacturer with an existing contract that does not execute a contract amendment with the department within 60 days of the effective date of the amendment of this section enacted in 1992, pursuant to the requirements of this subdivision as amended, or a manufacturer without an existing contract that does not execute a contract with the department within 60 days of the effective date of this amendment of this section enacted in 1992, pursuant to the requirements of this subdivision as amended, shall be available to Medi-Cal beneficiaries only through prior authorization.

(2) The department shall provide for an annual audit of utilization data used to calculate the equalization amount to verify the accuracy of that data. The findings of the audit shall be documented in a written audit report to be made available to manufacturers within 90 days of receipt of the report from the auditor. Any manufacturer may receive a copy of the audit report upon written request. Contracts between the department and manufacturers shall provide for any equalization payment adjustments determined necessary pursuant to an audit.

(3) (A) The department shall provide for an annual written report of Medi-Cal pharmacy costs or Medi-Cal drug costs, as defined in subdivision (f) of Section 14105.31.

(B) The annual report shall be consistent with the relevant sections of the Quarterly Report of Expenditures for the Medi-Cal Assistance Program, known as the HCFA-64 Report, provided to the Health Care Financing Administration. The report shall include the following expenditure and receipt information:

(i) The total annual equalization payment amounts received by the department pursuant to agreements with the Health Care Financing Administration of the United States Department of Health and Human Services.

(ii) The total annual equalization payment amounts received pursuant to state contracts with drug manufacturers.

(iii) Total drug cost amounts upon which equalization payments were made.

(4) Utilization data used to determine an equalization payment amount shall exclude data from both of the following:

(A) Health maintenance organizations, as defined in Section 300e(a) of Title 42 of the United States Code, including those organizations that contract under Section 1396b(m) of Title 42 of the United States Code.

(B) Capitated plans that include a prescription drug benefit in the capitated rate, and that have negotiated contracts for rebates or discounts with manufacturers.

(c) In order that Medi-Cal beneficiaries may have access to a comprehensive range of therapeutic agents, the department shall ensure that there is representation on the list of contract drugs in all major therapeutic categories. Except as provided in subdivision (a) of Section 14105.35, the department shall not be required to contract

with all manufacturers who negotiate for a contract in a particular category. The department shall ensure that there is sufficient representation of single-source and multiple-source drugs, as appropriate, in each major therapeutic category.

(d) (1) The department shall select the therapeutic categories to be included on the list of contract drugs, and the order in which it seeks contracts for those categories. The department may establish different contracting schedules for single-source and multiple-source drugs within a given therapeutic category.

(2) The department shall make every attempt to complete the initial contracting process for each major therapeutic category by January 1, 1997.

(e) (1) In order to fully implement subdivision (d), the department shall, to the extent necessary, negotiate or renegotiate contracts to ensure there are as many single-source drugs within each therapeutic category or subcategory as the department determines necessary to meet the health needs of the Medi-Cal population. The department may determine in selected therapeutic categories or subcategories that no single-source drugs are necessary because there are currently sufficient multiple-source drugs in the therapeutic category or subcategory on the list of contract drugs to meet the health needs of the Medi-Cal population. However, in no event shall a beneficiary be denied continued use of a drug which is part of a prescribed therapy in effect as of September 2, 1992, until the prescribed therapy is no longer prescribed.

(2) In the development of decisions by the department on the required number of single-source drugs in a therapeutic category or subcategory, and the relative therapeutic merits of each drug in a therapeutic category or subcategory, the department shall consult with the Medi-Cal Contract Drug Advisory Committee. The committee members shall communicate their comments and recommendations to the department within 10 business days of a request for consultation, and shall disclose any associations with pharmaceutical manufacturers or any remuneration from pharmaceutical manufacturers.

(3) In order to expedite implementation of paragraph (1), the requirements of Sections 14105.37, 14105.38, subdivisions (a), (c), (e), and (f) of Sections 14105.39, 14105.4, and 14105.405 are waived for the purposes of this section until January 1, 1994.

(f) In order to achieve maximum cost savings, the Legislature declares that an expedited process for contracts under this section is necessary. Therefore, contracts entered into on a nonbid basis shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(g) In no event shall a beneficiary be denied continued use of a drug that is part of a prescribed therapy in effect as of September 2, 1992, until the prescribed therapy is no longer prescribed.

(h) Contracts executed pursuant to this section shall be confidential and shall be exempt from disclosure under the

California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(i) The department shall provide individual notice to Medi-Cal beneficiaries at least 60 calendar days prior to the effective date of the deletion or suspension of any drug from the list of contract drugs. The notice shall include a description of the beneficiary's right to a fair hearing and shall encourage the beneficiary to consult a physician to determine if an appropriate substitute medication is available from Medi-Cal.

(j) In carrying out the provisions of this section, the department may contract either directly, or through the fiscal intermediary, for pharmacy consultant staff necessary to initially accomplish the treatment authorization request reviews. This authority shall extend for a maximum of 18 months from the date of the initial contract.

(k) 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. 3. Section 14105.33 of the Welfare and Institutions Code is amended to read:

14105.33. (a) The department may enter into contracts with manufacturers of single-source and multiple-source drugs, on a bid or nonbid basis, for drugs from each major therapeutic category, and shall maintain a list of those drugs for which contracts have been executed. It is the intent of the Legislature that, in the implementation of this section during the 1992–93 fiscal year, the director negotiate as aggressively as necessary to achieve the savings related to pharmaceutical contracting identified in the Budget Act of 1992 (Chapter 587 of the Statutes of 1992).

(b) (1) Contracts executed pursuant to this section shall be for the manufacturer's best price, as defined in Section 14105.31, which shall be specified in the contract, and subject to agreed upon price escalators, as defined in that section. The contracts shall provide for an equalization payment amount, as defined in Section 14105.31, to be remitted to the department quarterly. The department shall submit an invoice to each manufacturer for the equalization payment amount, based on utilization data from the department's prescription drug paid claims tapes. The drugs of any manufacturer with an existing contract that does not execute a contract amendment with the department within 60 days of the effective date of the amendment of this section enacted in 1992, pursuant to the requirements of this subdivision as amended, or a manufacturer without an existing contract that does not execute a contract with the department within 60 days of the effective date of this amendment of this section enacted in 1992, pursuant to the requirements of this subdivision as amended, shall be available to Medi-Cal beneficiaries only through prior authorization.

(2) The department shall provide for an annual audit of utilization data used to calculate the equalization amount to verify the accuracy of that data. The findings of the audit shall be documented in a

written audit report to be made available to manufacturers within 90 days of receipt of the report from the auditor. Any manufacturer may receive a copy of the audit report upon written request. Contracts between the department and manufacturers shall provide for any equalization payment adjustments determined necessary pursuant to an audit.

(3) In negotiating contracts, the department shall, upon request, provide manufacturers reasonable disclosure of the methods used to develop cost estimates.

(4) Utilization data used to determine an equalization payment amount shall exclude data from both of the following:

(A) Health maintenance organizations, as defined in Section 300e(a) of Title 42 of the United States Code, including those organizations that contract under Section 1396b(m) of Title 42 of the United States Code.

(B) Capitated plans that include a prescription drug benefit in the capitated rate, and that have negotiated contracts for rebates or discounts with manufacturers.

(c) In order that Medi-Cal beneficiaries may have access to a comprehensive range of therapeutic agents, the department shall ensure that there is representation on the list of contract drugs in all major therapeutic categories. Except as provided in subdivision (a) of Section 14105.35, the department shall not be required to contract with all manufacturers who negotiate for a contract in a particular category. The department shall ensure that there is sufficient representation of single-source and multiple-source drugs, as appropriate, in each major therapeutic category.

(d) (1) The department shall select the therapeutic categories to be included on the list of contract drugs, and the order in which it seeks contracts for those categories. The department may establish different contracting schedules for single-source and multiple-source drugs within a given therapeutic category.

(2) The department shall make every attempt to complete the initial contracting process for each major therapeutic category by January 1, 1997.

(e) (1) In order to fully implement subdivision (d), the department shall, to the extent necessary, negotiate or renegotiate contracts to ensure there are as many single-source drugs within each therapeutic category or subcategory as the department determines necessary to meet the health needs of the Medi-Cal population. The department may determine in selected therapeutic categories or subcategories that no single-source drugs are necessary because there are currently sufficient multiple-source drugs in the therapeutic category or subcategory on the list of contract drugs to meet the health needs of the Medi-Cal population. However, in no event shall a beneficiary be denied continued use of a drug which is part of a prescribed therapy in effect as of September 2, 1992, until the prescribed therapy is no longer prescribed.

(2) In the development of decisions by the department on the

required number of single-source drugs in a therapeutic category or subcategory, and the relative therapeutic merits of each drug in a therapeutic category or subcategory, the department shall consult with the Medi-Cal Contract Drug Advisory Committee. The committee members shall communicate their comments and recommendations to the department within 10 business days of a request for consultation, and shall disclose any associations with pharmaceutical manufacturers or any remuneration from pharmaceutical manufacturers.

(3) In order to expedite implementation of paragraph (1), the requirements of Sections 14105.37, 14105.38, subdivisions (a), (c), (e), and (f) of Sections 14105.39, 14105.4, and 14105.405 are waived for the purposes of this section until January 1, 1994.

(f) In order to achieve maximum cost savings, the Legislature declares that an expedited process for contracts under this section is necessary. Therefore, contracts entered into on a nonbid basis shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(g) In no event shall a beneficiary be denied continued use of a drug that is part of a prescribed therapy in effect as of September 2, 1992, until the prescribed therapy is no longer prescribed.

(h) Contracts executed pursuant to this section shall be confidential and shall be exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(i) The department shall provide individual notice to Medi-Cal beneficiaries at least 60 calendar days prior to the effective date of the deletion or suspension of any drug from the list of contract drugs. The notice shall include a description of the beneficiary's right to a fair hearing and shall encourage the beneficiary to consult a physician to determine if an appropriate substitute medication is available from Medi-Cal.

(j) In carrying out the provisions of this section, the department may contract either directly, or through the fiscal intermediary, for pharmacy consultant staff necessary to initially accomplish the treatment authorization request reviews. This authority shall extend for a maximum of 18 months from the date of the initial contract.

(k) 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. 4. Section 14105.33 of the Welfare and Institutions Code is amended to read:

14105.33. (a) The department may enter into contracts with manufacturers of single-source and multiple-source drugs, on a bid or nonbid basis, for drugs from each major therapeutic category, and shall maintain a list of those drugs for which contracts have been executed. It is the intent of the Legislature that, in the implementation of this section during the 1992–93 fiscal year, the director negotiate as aggressively as necessary to achieve the savings

related to pharmaceutical contracting identified in the Budget Act of 1992 (Chapter 587 of the Statutes of 1992).

(b) (1) Contracts executed pursuant to this section shall be for the manufacturer's best price, as defined in Section 14105.31, which shall be specified in the contract, and subject to agreed upon price escalators, as defined in that section. The contracts shall provide for an equalization payment amount, as defined in Section 14105.31, to be remitted to the department quarterly. The department shall submit an invoice to each manufacturer for the equalization payment amount, based on utilization data from the department's prescription drug paid claims tapes. The drugs of any manufacturer with an existing contract that does not execute a contract amendment with the department within 60 days of the effective date of the amendment of this section enacted in 1992, pursuant to the requirements of this subdivision as amended, or a manufacturer without an existing contract that does not execute a contract with the department within 60 days of the effective date of this amendment of this section enacted in 1992, pursuant to the requirements of this subdivision as amended, shall be available to Medi-Cal beneficiaries only through prior authorization.

(2) The department shall provide for an annual audit of utilization data used to calculate the equalization amount to verify the accuracy of that data. The findings of the audit shall be documented in a written audit report to be made available to manufacturers within 90 days of receipt of the report from the auditor. Any manufacturer may receive a copy of the audit report upon written request. Contracts between the department and manufacturers shall provide for any equalization payment adjustments determined necessary pursuant to an audit.

(3) In negotiating contracts, the department shall, upon request, provide manufacturers reasonable disclosure of the methods used to develop cost estimates.

(4) (A) The department shall provide for an annual written report of Medi-Cal pharmacy costs or Medi-Cal drug costs, as defined in subdivision (f) of Section 14105.31.

(B) The annual report shall be consistent with the relevant sections of the Quarterly Report of Expenditures for the Medi-Cal Assistance Program, known as the HCFA-64 Report, provided to the Health Care Financing Administration. The report shall include the following expenditure and receipt information:

(i) The total annual equalization payment amounts received by the department pursuant to agreements with the Health Care Financing Administration of the United States Department of Health and Human Services.

(ii) The total annual equalization payment amounts received pursuant to state contracts with drug manufacturers.

(iii) Total drug cost amounts upon which equalization payments were made.

(5) Utilization data used to determine an equalization payment

amount shall exclude data from both of the following:

(A) Health maintenance organizations, as defined in Section 300e(a) of Title 42 of the United States Code, including those organizations that contract under Section 1396b(m) of Title 42 of the United States Code.

(B) Capitated plans that include a prescription drug benefit in the capitated rate, and that have negotiated contracts for rebates or discounts with manufacturers.

(c) In order that Medi-Cal beneficiaries may have access to a comprehensive range of therapeutic agents, the department shall ensure that there is representation on the list of contract drugs in all major therapeutic categories. Except as provided in subdivision (a) of Section 14105.35, the department shall not be required to contract with all manufacturers who negotiate for a contract in a particular category. The department shall ensure that there is sufficient representation of single-source and multiple-source drugs, as appropriate, in each major therapeutic category.

(d) (1) The department shall select the therapeutic categories to be included on the list of contract drugs, and the order in which it seeks contracts for those categories. The department may establish different contracting schedules for single-source and multiple-source drugs within a given therapeutic category.

(2) The department shall make every attempt to complete the initial contracting process for each major therapeutic category by January 1, 1997.

(e) (1) In order to fully implement subdivision (d), the department shall, to the extent necessary, negotiate or renegotiate contracts to ensure there are as many single-source drugs within each therapeutic category or subcategory as the department determines necessary to meet the health needs of the Medi-Cal population. The department may determine in selected therapeutic categories or subcategories that no single-source drugs are necessary because there are currently sufficient multiple-source drugs in the therapeutic category or subcategory on the list of contract drugs to meet the health needs of the Medi-Cal population. However, in no event shall a beneficiary be denied continued use of a drug which is part of a prescribed therapy in effect as of September 2, 1992, until the prescribed therapy is no longer prescribed.

(2) In the development of decisions by the department on the required number of single-source drugs in a therapeutic category or subcategory, and the relative therapeutic merits of each drug in a therapeutic category or subcategory, the department shall consult with the Medi-Cal Contract Drug Advisory Committee. The committee members shall communicate their comments and recommendations to the department within 10 business days of a request for consultation, and shall disclose any associations with pharmaceutical manufacturers or any remuneration from pharmaceutical manufacturers.

(3) In order to expedite implementation of paragraph (1), the

requirements of Sections 14105.37, 14105.38, subdivisions (a), (c), (e), and (f) of Sections 14105.39, 14105.4, and 14105.405 are waived for the purposes of this section until January 1, 1994.

(f) In order to achieve maximum cost savings, the Legislature declares that an expedited process for contracts under this section is necessary. Therefore, contracts entered into on a nonbid basis shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(g) In no event shall a beneficiary be denied continued use of a drug that is part of a prescribed therapy in effect as of September 2, 1992, until the prescribed therapy is no longer prescribed.

(h) Contracts executed pursuant to this section shall be confidential and shall be exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(i) The department shall provide individual notice to Medi-Cal beneficiaries at least 60 calendar days prior to the effective date of the deletion or suspension of any drug from the list of contract drugs. The notice shall include a description of the beneficiary's right to a fair hearing and shall encourage the beneficiary to consult a physician to determine if an appropriate substitute medication is available from Medi-Cal.

(j) In carrying out the provisions of this section, the department may contract either directly, or through the fiscal intermediary, for pharmacy consultant staff necessary to initially accomplish the treatment authorization request reviews. This authority shall extend for a maximum of 18 months from the date of the initial contract.

(k) 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. 5. Section 2 of this bill incorporates amendments to Section 14105.33 of the Welfare and Institutions Code proposed by both this bill and AB 1705. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1994, (2) each bill amends Section 14105.33 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 1705, in which case Sections 1, 3, and 4 of this bill shall not become operative.

SEC. 6. Section 3 of this bill incorporates amendments to Section 14105.33 of the Welfare and Institutions Code proposed by both this bill and SB 1180 and SB 1216. It shall only become operative if (1) this bill and either SB 1180 or SB 1216, or both, are enacted and become effective on January 1, 1994, (2) each bill amends Section 14105.33 of the Welfare and Institutions Code, and (3) this bill is enacted after SB 1180 or SB 1216, in which case Sections 1, 2, and 4 of this bill shall not become operative.

SEC. 7. Section 4 of this bill incorporates amendments to Section 14105.33 of the Welfare and Institutions Code proposed by both this bill, AB 1705, SB 1180, and SB 1216. It shall only become operative if (1) this bill, AB 1705 and SB 1180 or SB 1216, or both, are enacted and

become effective on January 1, 1994, (2) each bill amends Section 14105.33 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 1705 SB 1180 and SB 1216, in which case Sections 1, 2, and 3 of this bill shall not become operative.

CHAPTER 1163

An act to amend Section 44548 of the Health and Safety Code, relating to pollution control.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 44548 of the Health and Safety Code is amended to read:

44548. (a) Subject to any prior contractual obligations to any of its bondholders, the authority may establish one or more small business assistance funds in order to assist small businesses to achieve financing of pollution control facilities. For the purpose of establishing and maintaining small business assistance funds as it determines to be necessary or desirable to secure its bonds or any issuance thereof or for other authorized purposes, the authority, pursuant to its contracts with participating parties, may levy fees or other charges on, or require deposits from, participating parties receiving financing for a project under this division. The total amount of these fees, charges, and deposits with respect to a single issue of bonds shall not exceed 3 percent of the principal amount of that issue of bonds. Prior to levying any fees or charges or requiring deposits, the authority shall adopt regulations for the operation of the small business assistance funds, the amounts and any payment schedule for the fees, charges, or deposits, eligibility standards for small businesses desiring to use or benefit from the small business assistance funds, and any other matters the authority determines to be necessary for the establishment and maintenance of small business assistance funds. The regulations may provide for differential fees from participating parties based upon the size of a project financed by the authority or other factors determined to be relevant by the authority, and the regulations may restrict any benefits to those eligible small businesses as may be specified in the regulations. The authority may transfer any funds available to it or set aside for its administrative expenses to any small business assistance fund established under this section.

(b) The forms of financial assistance which the authority may provide under this section include, but are not limited to, payments to reduce, but not eliminate, the interest rate on loans; payments of part or all of the cost of acquiring letters of credit, insurance,

guarantees, or other forms of credit support; and payment of part or all of the authority's expenses in issuing revenue bonds or providing other assistance. The authority may pledge any small business assistance fund, on an individual or pooled basis, to repay, directly or indirectly, the principal of, or interest or premium on, any issue of bonds of the authority or any loan made or acquired pursuant to this section. In addition to other purposes set forth in this section, the authority may use moneys in a small business assistance fund to make or acquire loans to participating parties eligible for assistance from those funds. Any moneys repaid or returned to the authority in connection with or as a result of any loan or financial assistance made pursuant to this section shall be deposited in the small business assistance fund from which the loan or assistance was originally provided. The authority may contract with qualified financial institutions, including, but not limited to, banks, investment and mortgage bankers, insurance companies, sureties, and guarantors, to provide any necessary assistance in the granting of credit for these purposes.

(c) Each small business assistance fund established pursuant to this section shall be deposited in a special account which the Controller shall create. Notwithstanding any other provision of law, and subject to any requirements of federal tax law or regulations relative to maintaining the tax-exempt status of the obligations of the authority, all interest or other gains earned by investment or deposit of money in the special account pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code or pursuant to any other provision of law shall be credited to, and deposited in, the account.

(d) In carrying out this section, the authority shall participate with air pollution control districts and air quality management districts in providing financial assistance in their lending programs.

CHAPTER 1164

An act to repeal Chapter 22 (commencing with Section 3800) of Division 1 of the Financial Code, and to amend Sections 44537.5 and 44548 of, and to add Article 8 (commencing with Section 44559) to Chapter 1 of Division 27 of, the Health and Safety Code, relating to economic development, and making an appropriation therefor.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Chapter 22 (commencing with Section 3800) of Division 1 of the Financial Code is repealed.

SEC. 2. Section 44537.5 of the Health and Safety Code is amended

to read:

44537.5. The authority shall provide maximum opportunity for use of their financing by individuals and small businesses or corporations by providing information, assistance, and coordination to facilitate financing for small projects and other financing that benefits the environment, with special attention to the needs of businesses that do not meet standard commercial lending requirements but provide public benefits, such as job creation or retention.

SEC. 3. Section 44548 of the Health and Safety Code is amended to read:

44548. (a) Subject to any prior contractual obligations to any of its bondholders, the authority may establish one or more small business assistance funds in order to assist small businesses to achieve financing of pollution control facilities or to strengthen environmental compliance by funding a capital access program for small businesses pursuant to Article 8 (commencing with Section 44559). For the purpose of establishing and maintaining small business assistance funds as it determines to be necessary or desirable to secure its bonds or any issuance thereof or for other authorized purposes, the authority, pursuant to its contracts with participating parties, may levy fees or other charges on, or require deposits from, participating parties receiving financing for a project under this division. The total amount of these fees, charges, and deposits with respect to a single issue of bonds shall not exceed 3 percent of the principal amount of that issue of bonds. Prior to levying any fees or charges or requiring deposits, the authority shall adopt regulations for the operation of the small business assistance funds, the amounts and any payment schedule for the fees, charges, or deposits, eligibility standards for small businesses desiring to use or benefit from the small business assistance funds, and any other matters the authority determines to be necessary for the establishment and maintenance of small business assistance funds. The regulations may provide for differential fees from participating parties based upon the size of a project financed by the authority or other factors determined to be relevant by the authority, and the regulations may restrict any benefits to those eligible small businesses as may be specified in the regulations. The authority may transfer any funds available to it or set aside for its administrative expenses to any small business assistance fund established under this section.

(b) The forms of financial assistance which the authority may provide under this section include, but are not limited to, payments to reduce, but not eliminate, the interest rate on loans; payments of part or all of the cost of acquiring letters of credit, insurance, guarantees, or other forms of credit support; and payment of part or all of the authority's expenses in issuing revenue bonds or providing other assistance. The authority may also pledge any small business assistance fund, on an individual or pooled basis, to repay, directly or indirectly, the principal of, or interest or premium on, any issue of

bonds of the authority or any loan made or acquired pursuant to this section. In addition to other purposes set forth in this section, the authority may use moneys in a small business assistance fund to make or acquire loans or guarantee commercial loans to participating parties eligible for assistance from those funds. Any moneys repaid or returned to the authority in connection with or as a result of any loan or financial assistance made pursuant to this section shall be deposited in the small business assistance fund from which the loan or assistance was originally provided. The authority may contract with qualified financial institutions, including, but not limited to, banks, investment and mortgage bankers, insurance companies, sureties, and guarantors, to provide any necessary assistance in the granting of credit for these purposes.

(c) Each small business assistance fund established pursuant to this section shall be deposited in a special account which the Controller shall create. Notwithstanding any other provision of law, and subject to any requirements of federal tax law or regulations relative to maintaining the tax-exempt status of the obligations of the authority, all interest or other gains earned by investment or deposit of money in the special account pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code or pursuant to any other provision of law shall be credited to, and deposited in, the account.

(d) In carrying out this section, the authority shall participate with the air pollution control districts and air quality management districts in providing financial assistance in its lending programs.

SEC. 4. Article 8 (commencing with Section 44559) is added to Chapter 1 of Division 27 of the Health and Safety Code, to read:

Article 8. Capital Access Loan Program for Small Businesses

44559. The Legislature finds that small businesses engaged in manufacturing or other operations are responsible for a significant amount of environmental emissions in the state, but are less able than larger businesses to afford the investment in new equipment or process modifications needed to comply with environmental regulations, both with regard to controlling emissions and preventing the creation of pollutants, contaminants, or waste products. Additionally, small businesses faced with financial pressures will be likely to reduce expenditures for environmental compliance. Better access to capital will allow small businesses to more easily comply with environmental mandates, to the benefit of all the residents of the state.

44559.1. As used in this article, unless the context requires otherwise:

(a) "Authority" means the California Pollution Control Financing Authority.

(b) "Executive director" means the Executive Director of the California Pollution Control Financing Authority.

(c) "Financial institution" means a federal or state-chartered bank, savings association, or credit union.

(d) "Loss reserve account" means an account in the State Treasury or any financial institution that is established and maintained by the authority for the benefit of a financial institution participating in the capital access loan program established pursuant to this article for the purpose of the following:

(1) Depositing all required fees paid by the participating financial institution and the qualified business.

(2) Depositing contributions made by the state and, if applicable, the federal government.

(3) Covering losses on enrolled qualified loans sustained by the participating financial institution by disbursing funds accumulated in the loss reserve account.

(e) "Participating financial institution" means a financial institution that has been approved by the authority to enroll qualified loans in the program and has agreed to all terms and conditions set forth in this article and as may be required by any applicable federal law providing matching funding.

(f) "Passive real estate ownership" means ownership of real estate for the purpose of deriving income from speculation, trade, or rental, but does not include any of the following:

(1) The ownership of that portion of real estate being used or intended to be used for the operation of the business of the owner of the real estate.

(2) The ownership of real estate for the purpose of construction or renovation, until the completion of the construction or renovation phase.

(g) "Program" means the Capital Access Loan Program created pursuant to this article.

(h) "Qualified business" means a small business concern that meets all of the following criteria:

(1) It is a corporation, partnership, cooperative, or other entity, whether that entity is a nonprofit entity or an entity established for profit, that is authorized to conduct business in the state.

(2) It has its primary business location within the boundaries of the state.

(3) It has operations that affect the environment of the state by producing air, water, solid waste, or hazardous waste products or emissions, or otherwise affects the environment.

(i) "Qualified loan" means a loan or a portion of a loan made by a participating financial institution to a qualified business for any business activity that has its primary economic effect in California. A qualified loan may be made in the form of a line of credit, in which case the amount of the loan enrolled shall be considered to be the maximum amount that can be drawn against the line of credit. A qualified loan made under the program may be made with such interest rates, fees, and other terms and conditions as agreed upon by the participating financial institution and the borrower.

"Qualified loan" does not include any of the following:

(1) A loan for the construction or purchase of residential housing.

(2) A loan to finance passive real estate ownership.

(3) A loan for the refinancing of an existing loan when and to the extent that the outstanding balance is not increased.

(4) A loan, the proceeds of which will be used in any manner that could cause the interest on any bonds previously issued by the authority to become subject to federal income tax.

(j) "Severely affected community" means any area classified as an enterprise zone pursuant to the Enterprise Zone Act, and any other comparable economically distressed geographic area so designated by the executive director from time to time.

(k) "Small business concern" has the same meaning as in Section 3 of the Small Business Act (15 U.S.C. Sec. 631 et seq.), or as otherwise provided in regulations of the authority.

44559.2. (a) The authority may contract with any financial institution for the purpose of allowing the financial institution to participate in the capital access loan program established by this article.

(b) A contract between the authority and a financial institution under this section shall provide for all of the following:

(1) The creation of a loss reserve account by the authority for the benefit of the financial institution.

(2) The financial institution, qualified business, and the authority will deposit moneys to the credit of the institution's loss reserve account when the financial institution makes a qualified loan to a qualified business.

(3) The liability of the state and the authority to the financial institution under the contract is limited to the amount of money credited to the loss reserve account of the institution.

(4) The financial institution shall provide the information that the authority may require, including financial information that is identifiable with, or identifiable from the financial records of a particular customer who is the recipient of a qualified loan. In addition to any other information that the authority may require, the financial institution shall provide the complete Standard Industrial Classification (SIC) code for the qualified business and information that provides the precise geographic location of both the qualified business and the borrower, if different.

(5) The financial institution will file a report with the executive director setting out a full description of the board of directors, including size, race, ethnicity, and gender.

(6) The participating financial institution will require each borrower, prior to receiving a loan under the program, to sign a written representation to the participating financial institution that the borrower has no legal, beneficial, or equitable interest in the nonrefundable premium charges or any other funds credited to the loss reserve account established by the authority for the participating financial institution.

(7) Other terms that the authority may require for purposes of this article.

(c) A financial institution is not subject to laws restricting the disclosure of financial information when the financial institution provides information to the authority as required by paragraph (4) of subdivision (b).

(d) A credit union operating pursuant to a certificate issued under the California Credit Union Law (Division 5 (commencing with Section 14000) of the Financial Code) may participate in the capital access loan program established pursuant to this article only to the extent participation is in compliance with the California Credit Union Law. Nothing in this article shall be construed to limit the authority of the Commissioner of Corporations to regulate credit unions subject to the commissioner's jurisdiction under the California Credit Union Law.

44559.3. (a) The authority shall establish a loss reserve account for each financial institution with which the authority makes a contract.

(b) The loss reserve account for a financial institution shall consist of moneys paid as fees by borrowers and the financial institution, moneys transferred to the account from a small business assistance fund, any matching federal moneys, and any other moneys provided by the authority or other source.

(c) Notwithstanding any other provision of law, the authority may establish and maintain loss reserve accounts with any financial institution under such policies as the authority may adopt.

(d) All moneys in a loss reserve account established pursuant to this article are the exclusive property of, and solely controlled by, the authority. Interest or income earned on moneys credited to the loss reserve account shall be deemed to be part of the loss reserve account. The authority may withdraw any time from the loss reserve account not more than 50 percent of all interest or other income that has been credited to the loss reserve account, except that subsequent to the first such withdrawal, the authority may not withdraw more than 50 percent of all interest or other income that has been credited to the loss reserve account since the time of the last such withdrawal. Any withdrawal made pursuant to this subdivision may be made prior to paying any claim and shall be used for the sole purpose of offsetting administrative costs associated with carrying out the program.

(e) The combined amount to be deposited by the participating financial institution into any individual loss reserve account over a three-year period, in connection with any single borrower or any group of borrowers among which a common enterprise exists, shall be not more than one hundred thousand dollars ($100,000).

44559.4. (a) When a financial institution participates in the capital access loan program established pursuant to this article, if the financial institution decides to enroll a qualified loan under the program in order to obtain the protection against loss provided by

its loss reserve account, the financial institution shall notify the authority in writing on a form prescribed by the authority, within 10 days after the date on which the loan is made, of all of the following:

(1) The disbursement of the loan.

(2) The dollar amount of the loan enrolled.

(3) The interest rate applicable to and the term of the loan.

(4) The amount of the agreed upon premium.

(b) When making a qualified loan that will be enrolled under the program, the participating financial institution shall require the qualified business to which the loan is made to pay a fee of not less than 2 percent of the principal amount of the loan, but not more than 3½ percent of such principal amount. The financial institution shall also pay a fee in an amount equal to the fee paid by the borrower. The financial institution shall deliver the fees collected under this subdivision to the authority for deposit in the loss reserve account for the institution. The financial institution may recover from the borrower the cost of its payments to the loss reserve account through the financing of the loan, upon the agreement of the financial institution and the borrower.

(c) When depositing fees collected under subdivision (b) to the credit of the loss reserve account for a participating financial institution, the authority shall do the following:

(1) If no matching funds are available under a federal capital access program or other source, the authority shall transfer to the loss reserve account an amount that is not less than the total amount of the combined fees paid by the borrower and the participating financial institution. However, if the qualified business is located within a severely affected community, the authority shall transfer to the loss reserve account an amount equal to 150 percent of the total amount of the fees paid by the borrower and the participating financial institution.

(2) If matching funds are available under a federal capital access program or other source, the authority shall transfer, on an immediate or deferred basis, to the loss reserve account the amount required by such federal program or other source. However, the total amount deposited into the loss reserve account shall not be less than the amount which would have been deposited in the absence of matching funds.

44559.5. (a) The authority shall establish procedures under which financial institutions participating in the program established pursuant to this article may submit claims for reimbursement for losses incurred as a result of qualified loan defaults. A participating financial institution that charges off all or part of an enrolled loan to the loss reserve account may file a claim for reimbursement with the authority if both of the following conditions are met:

(1) The claim occurs contemporaneously with the action of the participating financial institution to charge off all or part of the loan.

(2) The charge off on an enrolled loan is made in a manner that is consistent with the participating financial institution's usual

method for making determinations on business loans that are not enrolled loans.

(b) Costs for which a financial institution may be reimbursed from its loss reserve account include the amount of loan principal charged off, accrued interest on the principal, reasonable out-of-pocket expenses incurred in pursuing its collection efforts, including preservation of collateral, and any other related costs. Proper documentation of the expenses shall be presented at the time of the claim.

(c) If a participating financial institution files two or more claims contemporaneously, and there are insufficient funds in the reserve fund at that time to cover the entire amount of such claims, the institution may designate the order of priority in which the claims shall be paid.

(d) A financial institution may seek reimbursement of loan losses prior to the liquidation of collateral from defaulted loans. The financial institution shall repay its loss reserve account for any moneys received as reimbursement under this section if the financial institution recovers moneys from the borrower or from the liquidation of collateral for the defaulted loan, less any reasonable out-of-pocket expenses incurred in collection of such amount.

(e) In any case in which the payment of a claim under this section has fully covered a participating financial institution's loss on an enrolled loan, the participating financial institution shall assign to the authority, and to any applicable federal agency in the event federal matching funds are involved, any right, title, or interest to any collateral, security, or other right of recovery in connection with a loan made under the program.

(f) The executive director may adopt necessary rules for the authority to carry out its duties, functions, and powers relating to the program established pursuant to this article.

44559.6. The authority shall annually prepare a report to the Governor and the Legislature that describes the financial condition and programmatic results of the capital access loan program for small businesses authorized under this article.

44559.7. The authority may enter into agreements with commercial banks or other financial institutions, or with other agencies of the state, to provide necessary assistance in carrying out the program authorized by this article, including origination and servicing of loans.

CHAPTER 1165

An act to amend Section 42400 of, and to add Section 41512.7 to, the Health and Safety Code, relating to air pollution.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 41512.7 is added to the Health and Safety Code, to read:

41512.7. (a) No district with an annual budget of less than one million dollars ($1,000,000) shall increase any existing fees for authority to construct permits or permits to operate by more than 30 percent in any calendar year.

(b) No district with an annual budget of one million dollars ($1,000,000) or more shall increase any existing fees for authority to construct permits or permits to operate by more than 15 percent in any calendar year.

(c) Notwithstanding subdivision (b), this section shall not apply to the south coast district.

SEC. 2. Section 42400 of the Health and Safety Code is amended to read:

42400. (a) Except as otherwise provided in Section 42400.1 or 42400.2, any person who violates any provision of this part, or any order, permit, rule, or regulation of the state board or of a district, including a district hearing board, adopted pursuant to Part 1 (commencing with Section 39000) to Part 4 (commencing with Section 41500), inclusive, is guilty of a misdemeanor and is subject to a fine of not more than one thousand dollars ($1,000) or imprisonment in the county jail for not more than six months, or both.

(b) If a violation under subdivision (a) with regard to the failure to operate a vapor recovery system on a gasoline cargo tank is directly caused by the actions of an employee under the supervision of, or of any independent contractor working for, any person subject to this part, the employee or independent contractor, as the case may be, causing the violation is guilty of a misdemeanor and is punishable as provided in subdivision (a). That liability shall not extend to the person employing the employee or retaining the independent contractor, unless that person is separately guilty of any action violating any provision of this part.

(c) The recovery of civil penalties pursuant to Section 42402, 42402.1, 42402.2, or 42402.3 precludes prosecution pursuant to this section for the same offense. When a district refers a violation to a prosecuting agency, the filing of a criminal complaint is grounds requiring the dismissal of any civil action brought pursuant to this article for the same offense.

(d) Each day during any portion of which a violation of subdivision (a) occurs is a separate offense.

(e) Any violation described in subdivision (a) shall be prosecuted under this article and not under any provision of the Business and Professions Code.

CHAPTER 1166

An act to amend Sections 40507, 40752, 42300, 42301, 42350, 42400, 42400.3, 42402, and 42402.3 of, and to add Sections 39053.3, 39053.5, 42301.10, 42301.11, 42301.12, and 42400.4 to, the Health and Safety Code, relating to air pollution.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. It is the intent of the Legislature that this act provide authority in state law for the implementation of the operating permit program required by Title V of the federal Clean Air Act (42 U.S.C. 7661 et seq.) without affecting the issuance of permits as required by any other provision of state law.

SEC. 2. Section 39053.3 is added to the Health and Safety Code, to read:

39053.3. "Title V" means Title V of the federal Clean Air Act (42 U.S.C. Sec. 7661 et seq.).

SEC. 3. Section 39053.5 is added to the Health and Safety Code, to read:

39053.5. "Title V source" means only a stationary source required by federal law to be included in an operating permit program established pursuant to Title V of the federal Clean Air Act (42 U.S.C. Secs. 7661 to 7661f, incl.) and the federal regulations adopted pursuant to Title V.

SEC. 4. Section 40507 of the Health and Safety Code is amended to read:

40507. The south coast district board, in making any order granting a permit, may specify the time during which the order shall be effective and may require the payment of fees established by the south coast district board.

SEC. 5. Section 40752 of the Health and Safety Code is amended to read:

40752. The air pollution control officer shall observe and enforce all of the following:

(a) This part and Part 4 (commencing with Section 41500).

(b) All orders, regulations, and rules prescribed by the district board.

(c) All variances and standards which the district hearing board

has prescribed.

(d) All permit conditions imposed pursuant to Sections 42301 to 42301.10, inclusive.

SEC. 6. Section 42300 of the Health and Safety Code is amended to read:

42300. (a) Every district board may establish, by regulation, a permit system that requires, except as otherwise provided in Section 42310, that before any person builds, erects, alters, replaces, operates, or uses any article, machine, equipment, or other contrivance which may cause the issuance of air contaminants, the person obtain a permit to do so from the air pollution control officer of the district.

(b) The regulations may provide that a permit shall be valid only for a specified period. However, the expiration date of any permit shall be extended upon completion of the annual review required pursuant to subdivision (e) of Section 42301 and payment of the fees required pursuant to Section 42311, unless the air pollution control officer or the hearing board has initiated action to suspend or revoke the permit pursuant to Section 42304, 42307, or 42390, that action has resulted in a final determination by the officer or the board to suspend or revoke the permit, and all appeals have been exhausted or the time for appeals from that final determination has been exhausted.

(c) The annual extension of a permit's expiration date pursuant to subdivision (b) does not constitute permit issuance, renewal, reopening, amendment, or any other action subject to the requirements specified in Title V.

SEC. 7. Section 42301 of the Health and Safety Code is amended to read:

42301. A permit system established pursuant to Section 42300 shall do all of the following:

(a) Ensure that the article, machine, equipment, or contrivance for which the permit was issued does not prevent or interfere with the attainment or maintenance of any applicable air quality standard.

(b) Prohibit the issuance of a permit unless the air pollution control officer is satisfied, on the basis of criteria adopted by the district board, that the article, machine, equipment, or contrivance will comply with all of the following:

(1) All applicable orders, rules, and regulations of the district and of the state board.

(2) All applicable provisions of this division.

(c) Prohibit the issuance of a permit to a Title V source if the Administrator of the Environmental Protection Agency objects to its issuance in a timely manner as provided in Title V. This subdivision is not intended to provide any authority to the Environmental Protection Agency to object to the issuance of a permit other than that authority expressly granted by Title V.

(d) Provide that the air pollution control officer may issue to a Title V source a permit to operate or use if the owner or operator of

the Title V source presents a variance exempting the owner or operator from Section 41701, any rule or regulation of the district, or any permit condition imposed pursuant to this section, or presents an abatement order that has the effect of a variance and that meets all of the requirements of this part pertaining to variances, and the requirements for the issuance of permits to operate are otherwise satisfied. The terms and conditions of any variance or abatement order may be incorporated into the permit as a compliance schedule, to the extent required by Title V.

(e) Require, upon annual renewal, that each permit be reviewed to determine that the permit conditions are adequate to ensure compliance with, and the enforceability of, district rules and regulations applicable to the article, machine, equipment, or contrivance for which the permit was issued which were in effect at the time the permit was issued or modified, or which have subsequently been adopted and made retroactively applicable to an existing article, machine, equipment, or contrivance, by the district board and, if the permit conditions are not consistent, require that the permit be revised to specify the permit conditions in accordance with all applicable rules and regulations.

(f) Provide for the reissuance or transfer of a permit to a new owner or operator of an article, machine, equipment, or contrivance. An application for transfer of ownership only, or change in operator only, of any article, machine, equipment, or contrivance which had a valid permit to operate within the two-year period immediately preceding the application is a temporary permit to operate. Issuance of the final permit to operate shall be conditional upon a determination by the district that the criteria specified in subdivisions (b) and (e) are met, if the permit was not surrendered as a condition to receiving emission reduction credits pursuant to banking or permitting rules of the district. However, under no circumstances shall the criteria specify that a change of ownership or operator alone is a basis for requiring more stringent emission controls or operating conditions than would otherwise apply to the article, machine, equipment, or contrivance.

SEC. 8. Section 42301.10 is added to the Health and Safety Code, to read:

42301.10. In any district that has a permit system established pursuant to Section 42300, the air pollution control officer may include, in any permit issued to a Title V source, emission limits, standards, and other requirements that ensure compliance with all federal Clean Air Act "applicable requirements," as that term is defined in regulations adopted by the Environmental Protection Agency pursuant to Title V, including those requirements specified in an applicable implementation plan as defined by Section 7602(q) of Title 42 of the United States Code, and Parts C (42 U.S.C. Sec. 7470 et seq.) and D (42 U.S.C. Sec. 7501 et seq.) of Title 1 of the Clean Air Act.

SEC. 9. Section 42301.11 is added to the Health and Safety Code,

to read:

42301.11. It is the intent of the Legislature that, in implementing Title V, districts do all of the following:

(a) Develop, in recognition that districts are obligated to issue one-third of the Title V permits within one year of the Title V program's approval by the Environmental Protection Agency, and in recognition that sources are allowed one year to submit a Title V permit application, an equitable program for ensuring that all sources receive as much time as feasible to develop and submit permit applications. In developing the program the districts shall recognize the complexity and size of the facilities, the number and similarity of facilities within each industry category, the level of effort required to develop the permit application, and the resources available to complete the application. The districts should also consider potential incentive programs to promote voluntary early permit application submissions.

(b) Consider the merits and benefits of including the permit shield authorized by subsection (f) of Section 70.6 of Title 40 of the Code of Federal Regulations in all Title V permits to clarify the federal compliance responsibilities of Title V sources.

(c) Consistent with state and federal regulations, allow the use of emission monitoring alternatives, when available and having the accuracy required to ensure enforcement and compliance, in lieu of the use of continuous emission monitors.

(d) Give priority to the issuance of Title V permits for five-year terms.

SEC. 10. Section 42301.12 is added to the Health and Safety Code, to read:

42301.12. (a) Any district permit system or permit provision established by a district board to meet the requirements of Title V shall minimize the regulatory burden on Title V sources and the district and shall meet all of the following criteria:

(1) Apply only to Title V sources, as defined in Section 39053.5.

(2) Issue permits pursuant to Title V only after the Environmental Protection Agency has approved the district's Title V permit program.

(3) Identify in the permit, to the greatest extent feasible, permit terms and conditions which are federally enforceable and those which are not federally enforceable, so that requirements imposed only by the state are not made federally enforceable solely as a result of being included as part of a Title V permit. A district may make that identification by either of the following means:

(A) Identifying in the permit the terms and conditions which are federally enforceable because they are imposed pursuant to a federal requirement.

(B) Identifying in the permit the terms and conditions which are imposed pursuant to state law or district rules and are not federally enforceable.

(4) Utilize, to the extent reasonably feasible, general permits and

similar methods to reduce source and district permitting burdens for Title V sources.

(5) Establish clear and simple application completeness criteria.

(6) To the extent possible, minimize the burden of federally mandated paperwork such as recordkeeping and reporting documents.

(7) Allow sources maximum flexibility in selecting cost-effective, reliable, and representative monitoring methods consistent with applicable state and federal requirements.

(8) If a permit is required to be reopened to comply with Title V requirements, base the reopening upon the federal criteria for reopening and limit the reopening to only the federal component of the Title V permit. This paragraph is not intended to limit in any way the authority under state law to reopen permits.

(9) Authorize administrative permit amendments and minor permit modifications as required by federal law.

(10) Provide that, unless the district determines that a Title V application is not complete within 60 days of receipt of the application, the application shall be deemed to be complete.

(11) Authorize, to the extent consistent with existing state law, mandatory operational flexibility provisions required pursuant to subparagraphs (i) and (iii) of paragraph (12) of subsection (b) of Section 70.4 of, and paragraphs (9) and (10) of subsection (a) of Section 70.6 of, Part 40 of the Code of Federal Regulations, and consider optional operational flexibility provisions established pursuant to subparagraph (ii) of paragraph (12) of, and paragraphs (14) and (15) of, subsection (b) of Section 70.4 of, and subparagraph (iii) of paragraph (1) of subsection (a) of Section 70.6 of, Part 40 of the Code of Federal Regulations. Nothing in this paragraph is intended to affect whatsoever any pending litigation.

(12) Make every reasonable effort, in partnership with Title V sources and the state board, to evaluate and respond to the substance of any objection to a proposed permit and to obtain expeditious approval of Title V permits submitted to the Environmental Protection Agency.

SEC. 11. Section 42350 of the Health and Safety Code is amended to read:

42350. (a) Any person may apply to the hearing board for a variance from Section 41701 or from the rules and regulations of the district.

(b) (1) If the district board has established a permit system by regulation pursuant to Section 42300, a variance, or an abatement order which has the effect of a variance, may not be granted from the requirement for a permit to build, erect, alter, or replace.

(2) Title V sources shall not be granted a variance, or an abatement order which has the effect of a variance, from the requirement for a permit to operate or use.

SEC. 12. Section 42400 of the Health and Safety Code is amended to read:

42400. (a) Except as otherwise provided in Section 42400.1, 42400.2, or 42400.3, any person who violates this part, or any rule, regulation, permit, or order of the state board or of a district, including a district hearing board, adopted pursuant to Part 1 (commencing with Section 39000) to Part 4 (commencing with Section 41500), inclusive, is guilty of a misdemeanor and is subject to a fine of not more than one thousand dollars ($1,000) or imprisonment in the county jail for not more than six months, or both.

(b) If a violation under subdivision (a) with regard to the failure to operate a vapor recovery system on a gasoline cargo tank is directly caused by the actions of an employee under the supervision of, or of any independent contractor working for, any person subject to this part, the employee or independent contractor, as the case may be, causing the violation is guilty of a misdemeanor and is punishable as provided in subdivision (a). That liability shall not extend to the person employing the employee or retaining the independent contractor, unless that person is separately guilty of an action that violates this part.

(c) The recovery of civil penalties pursuant to Section 42402, 42402.1, 42402.2, or 42402.3 precludes prosecution pursuant to this section for the same offense. When a district refers a violation to a prosecuting agency, the filing of a criminal complaint is grounds requiring the dismissal of any civil action brought pursuant to this article for the same offense.

(d) Each day during any portion of which a violation of subdivision (a) occurs is a separate offense.

SEC. 13. Section 42400.3 of the Health and Safety Code is amended to read:

42400.3. (a) Any person who willfully and intentionally emits an air contaminant in violation of any provision of this part or any rule, regulation, permit, or order of the state board or of a district, pertaining to emission regulations or limitations is guilty of a misdemeanor and is subject to a fine of not more than fifty thousand dollars ($50,000) or imprisonment in the county jail for not more than one year, or both.

(b) The recovery of civil penalties pursuant to Section 42402, 42402.1, 42402.2 or 42402.3 precludes prosecution pursuant to this section for the same offense. When a district refers a violation to a prosecuting agency, the filing of a criminal complaint is grounds requiring the dismissal of any civil action brought pursuant to this article for the same offense.

(c) Each day during any portion of which a violation occurs constitutes a separate offense.

SEC. 14. Section 42400.4 is added to the Health and Safety Code, to read:

42400.4. (a) In any district where a Title V permit program has been fully approved by the Environmental Protection Agency, any person who knowingly violates any federally enforceable permit

condition or any fee or filing requirement applicable to a Title V source is guilty of a misdemeanor and is subject to a fine of not more than ten thousand dollars ($10,000).

(b) In any district in which a Title V permit program has been fully approved by the Environmental Protection Agency, any person who knowingly makes any false material statement, representation, or certification in any form or in any notice or report required of a Title V source of a federally enforceable permit requirement, or who knowingly renders inaccurate any monitoring device or method required of a Title V source, is guilty of a misdemeanor and is subject to a fine of not more than ten thousand dollars ($10,000).

(c) The recovery of civil penalties pursuant to Section 42402, 42401.1, 42402.2, or 42404.3 precludes prosecution pursuant to this section for the same offense. When a district refers a violation to a prosecuting agency, the filing of a criminal complaint is grounds requiring the dismissal of any civil action brought pursuant to this article for the same offense.

(d) Each day during any portion of which a violation of subdivision (a) or (b) occurs is a separate offense.

(e) This section shall not become operative in a district until the Environmental Protection Agency fully approves that district's Title V permit program.

(f) This section is applicable only to federally enforceable permit conditions which are not otherwise enforceable pursuant to Sections 42400, 42400.1, 42400.2, and 42400.3.

SEC. 15. Section 42402 of the Health and Safety Code is amended to read:

42402. (a) Except as otherwise provided in subdivision (b) or in Section 42402.1, 42402.2, or 42402.3, any person who violates this part, any order issued pursuant to Section 42316, or any rule, regulation, permit, or order of a district, including a district hearing board, or of the state board issued pursuant to Part 1 (commencing with Section 39000) to Part 4 (commencing with Section 41500), inclusive, is strictly liable for a civil penalty of not more than one thousand dollars ($1,000).

(b) (1) Any person who violates any provision of this part, any order issued pursuant to Section 42316, or any rule, regulation, permit, or order of a district, including a district hearing board, or of the state board issued pursuant to Part 1 (commencing with Section 39000) to Part 4 (commencing with Section 41500), inclusive, is strictly liable for a civil penalty of not more than ten thousand dollars ($10,000).

(2) Where a civil penalty in excess of one thousand dollars ($1,000) for each day in which the violation occurs is sought, there is no liability under this subdivision if the person accused of the violation alleges by affirmative defense and establishes that the violation was caused by an act which was not the result of intentional or negligent conduct. In a district in which a Title V permit program has been fully approved, this paragraph shall not apply to a violation

of federally enforceable requirements that occurs at a Title V source.

(c) Each day during any portion of which a violation occurs is a separate offense.

SEC. 15.5. Section 42402 of the Health and Safety Code is amended to read:

42402. (a) Except as otherwise provided in subdivision (b) or in Section 42402.1, 42402.2, or 42402.3, any person who violates this part, any order issued pursuant to Section 42316, or any rule, regulation, permit, or order of a district, including a district hearing board, or of the state board issued pursuant to Part 1 (commencing with Section 39000) to Part 4 (commencing with Section 41500), inclusive, is strictly liable for a civil penalty of not more than one thousand dollars ($1,000).

(b) (1) Any person who violates any provision of this part, any order issued pursuant to Section 42316, or any rule, regulation, permit, or order of a district, including a district hearing board, or of the state board issued pursuant to Part 1 (commencing with Section 39000) to Part 4 (commencing with Section 41500), inclusive, is strictly liable for a civil penalty of not more than ten thousand dollars ($10,000).

(2) (A) Where a civil penalty in excess of one thousand dollars ($1,000) for each day in which the violation occurs is sought, there is no liability under this subdivision if the person accused of the violation alleges by affirmative defense and establishes that the violation was caused by an act which was not the result of intentional or negligent conduct. In a district in which a Title V permit program has been fully approved, this paragraph shall not apply to a violation of federally enforceable requirements that occurs at a Title V source.

(B) This paragraph does not apply to a person who is determined to have violated an annual facility emissions cap established pursuant to a market-based incentive program under Section 39620.

(c) Each day during any portion of which a violation occurs is a separate offense.

SEC. 16. Section 42402.3 of the Health and Safety Code is amended to read:

42402.3. (a) Any person who willfully and intentionally emits an air contaminant in violation of this part or any rule, regulation, permit, or order of the state board, or of a district, pertaining to emission regulations or limitations, is liable for a civil penalty of not more than fifty thousand dollars ($50,000).

(b) Each day during any portion of which a violation occurs is a separate offense.

SEC. 17. Section 15.5 of this bill incorporates amendments to Section 42402 of the Health and Safety Code proposed by both this bill and AB 2107. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, (2) each bill amends Section 42402 of the Health and Safety Code, and (3) this bill is enacted after AB 2107, in which case Section 15 of this bill shall not become operative.

SEC. 18. (a) 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.

(b) No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution to the extent that 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.

(c) 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 1167

An act to amend Sections 11106, 12050, 12051, and 12054 of, and to repeal and add Section 12053 of, the Penal Code, relating to weapons.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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 firearms issued pursuant to Section 12050, information reported to the Department of Justice pursuant to Section 12053, dealers' records of sales of firearms, reports provided pursuant to 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 12050 of the Penal Code is amended to read:

12050. (a) (1) The sheriff of a county or the chief or other head of a municipal police department of any city or city and county, upon proof that the person applying is of good moral character, that good cause exists for the issuance, and that the person applying is a resident of the county, may issue to that person a license to carry a pistol, revolver, or other firearm capable of being concealed upon the person in either one of the following formats:

(A) A license to carry concealed a pistol, revolver, or other firearm capable of being concealed upon the person.

(B) Where the population of the county is less than 200,000 persons according to the most recent federal decennial census, a license to carry loaded and exposed in that county a pistol, revolver, or other firearm capable of being concealed upon the person.

(2) A license issued pursuant to this section is valid for any period of time not to exceed one year from the date of the license, or in the case of a peace officer appointed pursuant to Section 830.6, three years from the date of the license.

(b) A license may include any reasonable restrictions or conditions which the issuing authority deems warranted, including restrictions as to the time, place, manner, and circumstances under which the person may carry a pistol, revolver, or other firearm capable of being concealed upon the person.

(c) Any restrictions imposed pursuant to subdivision (b) shall be indicated on any license issued.

(d) A license shall not be issued if the Department of Justice determines that the person is within a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(e) (1) The license shall be revoked by the local licensing authority if at any time either the local licensing authority is notified by the Department of Justice that a licensee is within a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, or the local licensing authority determines that the person is within a prohibited class

described in Section 12021 or 12021.1 of the code or Section 8100 or 8103 of the Welfare and Institutions Code.

(2) If at any time the Department of Justice determines that a licensee is within a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, the department shall immediately notify the local licensing authority of the determination.

(3) If the local licensing authority revokes the license, the Department of Justice shall be notified of the revocation pursuant to Section 12053. The licensee shall also be immediately notified of the revocation in writing.

(f) (1) A person issued a license pursuant to this section may apply to the licensing authority for an amendment to the license to do one or more of the following:

(A) Add or delete authority to carry a particular pistol, revolver, or other firearm capable of being concealed upon the person.

(B) Authorize the licensee to carry concealed a pistol, revolver, or other firearm capable of being concealed upon the person.

(C) If the population of the county is less than 200,000 persons according to the most recent federal decennial census, authorize the licensee to carry loaded and exposed in that county a pistol, revolver, or other firearm capable of being concealed upon the person.

(D) Change any restrictions or conditions on the license, including restrictions as to the time, place, manner, and circumstances under which the person may carry a pistol, revolver, or other firearm capable of being concealed upon the person.

(2) When the licensee changes his or her address, the license shall be amended to reflect the new address and a new license shall be issued pursuant to paragraph (3).

(3) If the licensing authority amends the license, a new license shall be issued to the licensee reflecting the amendments.

(4) The licensee shall notify the licensing authority in writing within 10 days of any change in the licensee's place of residence. If the license is one to carry concealed a pistol, revolver, or other firearm capable of being concealed upon the person, then it may not be revoked solely because the licensee changes his or her place of residence to another county if the licensee has not breached any conditions or restrictions set forth in the license or has not fallen into a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. If the license is one to carry loaded and exposed a pistol, revolver, or other firearm capable of being concealed upon the person, the license shall be revoked immediately if the licensee changes his or her place of residence to another county.

(5) An amendment to the license does not extend the original expiration date of the license and the license shall be subject to renewal at the same time as if the license had not been amended.

(6) An application to amend a license does not constitute an application for renewal of the license.

SEC. 3. Section 12051 of the Penal Code is amended to read:

12051. (a) (1) Applications for licenses shall be filed in writing, signed by the applicant, and shall state the name, occupation, residence and business address of the applicant, his or her age, height, weight, color of eyes and hair, and reason for desiring a license to carry the weapon. Any license issued upon the application shall set forth the foregoing data and shall, in addition, contain a description of the weapon or weapons authorized to be carried, giving the name of the manufacturer, the serial number, and the caliber.

(2) Applications for amendments to licenses shall be filed in writing and signed by the applicant, and shall state what type of amendment is sought pursuant to subdivision (f) of Section 12050 and the reason for desiring the amendment.

(3) Applications for amendments to licenses, applications for licenses, amendments to licenses, and licenses shall be uniform throughout the state, upon forms to be prescribed by the Attorney General. The forms shall contain a provision whereby the applicant attests to the truth of statements contained in the application.

(b) Any person who files an application required by subdivision (a) knowing that statements contained therein are false is guilty of a misdemeanor.

(c) Any person who knowingly makes a false statement on the application regarding any of the following shall be guilty of a felony:

(1) The denial or revocation of a license, or the denial of an amendment to a license, issued pursuant to Section 12050.

(2) A criminal conviction.

(3) A finding of not guilty by reason of insanity.

(4) The use of a controlled substance.

(5) A dishonorable discharge from military service.

(6) A commitment to a mental institution.

(7) A renunciation of United States citizenship.

SEC. 4. Section 12053 of the Penal Code is repealed.

SEC. 4.5. Section 12053 is added to the Penal Code, to read:

12053. (a) A record of the following shall be maintained in the office of the licensing authority:

(1) The denial of a license.

(2) The denial of an amendment to a license.

(3) The issuance of a license.

(4) The amendment of a license.

(5) The revocation of a license.

(b) Copies of each of the following shall be filed immediately by the issuing officer or authority with the Department of Justice:

(1) The denial of a license.

(2) The denial of an amendment to a license.

(3) The issuance of a license.

(4) The amendment of a license.

(5) The revocation of a license.

SEC. 5. Section 12054 of the Penal Code is amended to read:

12054. (a) Each applicant for a new license or for the renewal of a license shall pay at the time of filing his or her application a fee determined by the Department of Justice not to exceed the application processing costs of the Department of Justice for the direct costs of furnishing the report required by Section 12052. 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 adjustments for the department's budget. The officer receiving the application and the fee shall transmit the fee, with the fingerprints if required, to the Department of Justice. The licensing authority of any city or county may charge an additional fee, not to exceed three dollars ($3), for processing the application, and shall transmit the additional fee, if any, to the city or county treasury.

(b) In the case of an amended license pursuant to subdivision (f) of Section 12050, the licensing authority of any city or county may charge a fee, not to exceed three dollars ($3), for processing the amended license and shall transmit the fee to the city or county treasury.

SEC. 6. 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 1168

An act to amend Sections 20006, 20006.1, 20026, 20026.1, 20026.2, 20034, 20130, 20132.6, 20137, 20654, and 21235.5 of, to add Section 21361.2, to repeal and add Section 20334 of, and to repeal Sections 20336 and 20652.5 of, the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 20006 of the Government Code is amended to read:

20006. "Actuary" means an actuary regularly employed on a full-time or part-time basis by the board.

SEC. 2. Section 20006.1 of the Government Code is amended to read:

20006.1. As of June 30, 1991, and thereafter at the end of periods not to exceed four years, the actuary shall make an actuarial investigation into the mortality, service, and compensation experience of members and persons receiving benefits and an actuarial valuation of the assets and liabilities of this system. From time to time, the actuary shall determine the rate of interest being earned on the Retirement Fund after deducting from earnings amounts applied to costs of administration of the system.

SEC. 3. Section 20026 of the Government Code is amended to read:

20026. "Regular interest" means interest at the annual interest rate for purposes of crediting of interest, compounded annually.

SEC. 4. Section 20026.1 of the Government Code is amended to read:

20026.1. "Annual interest rate" means the net earnings rate reduced by 110 basis points for purposes of crediting interest.

SEC. 5. Section 20026.2 of the Government Code is amended to read:

20026.2. "Actuarial interest rate" means the interest rate fixed by the board for purposes of actuarial valuation of the assets and liabilities of this system.

SEC. 6. Section 20034 of the Government Code is amended to read:

20034. "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the mortality tables adopted and the actuarial interest rate fixed by the board.

SEC. 7. Section 20130 of the Government Code is amended to read:

20130. (a) Upon the basis of any investigation, valuation, or determination, or all of these, the board shall adopt such mortality,

service and other tables and annual and actuarial interest rates as it deems necessary.

(b) A change in interest rate adopted by the board shall not apply to any election of a member to deposit or redeposit contributions, including interest, filed prior to the date the change was placed into effect.

SEC. 8. Section 20132.6 of the Government Code is amended to read:

20132.6. (a) The board shall credit all contributions of members in the retirement fund with interest at an interest crediting rate of 6 percent compounded at each June 30. The retired member reserves in the retirement fund shall be credited with the lesser of the current actuarial interest rate or the current annual interest rate compounded at each June 30. The interest amount that would have been credited to the member's account on and after the effective date of this section, had the account been credited with the lesser of the current actuarial interest rate or the current annual interest rate, rather than at the 6 percent interest crediting rate, shall be credited to retirement member reserves.

(b) Notwithstanding subdivision (a), the difference between the interest amount that was credited to the account of any member of this system who was paid his or her accumulated contributions on or after the effective date of this section, and the lesser of the current actuarial interest rate or the current annual interest rate, shall be transferred to the account established by the board under Section 21235.5 to fund the purchasing power protection allowance.

(c) If the current net earnings rate exceeds the interest rate used to credit the retired member accounts, in addition to the amount transferred to the fund established under Section 21235.5, the remaining amount shall be credited to employer accounts.

(d) The current annual interest rate may be lower than the current actuarial interest rate.

SEC. 9. Section 20137 of the Government Code is amended to read:

20137. The board shall report to the Governor and the Legislature, not later than December 1 of each year, on the extent to which the purpose of Section 21220 is being achieved under the provisions of this article and the amount of supplementary increases in retirement allowances required to meet the objective of preserving the purchasing power of benefits provided by the system. The board shall also determine and report on the increase in the state contribution rate required to provide the supplementary increases for state members, other than school members.

SEC. 10. Section 20334 of the Government Code is repealed.

SEC. 11. Section 20334 is added to the Government Code, to read:

20334. (a) An employee serving on a less than full-time basis is excluded from this system unless:

(1) He or she is a member at the time he or she renders less than full-time service and is not otherwise excluded pursuant to this

article or by a provision of a contract.

(2) His or her position requires regular, part-time service for one year or longer for at least an average of 20 hours a week, or requires service that is equivalent to at least an average of 20 hours a week, unless he or she elects membership pursuant to Section 20365.

(3) His or her employment is, in the opinion of the board, on a seasonal, limited-term, on-call, emergency, intermittent, substitute, or other irregular basis, and is compensated and meets one of the following conditions:

(A) The appointment or employment contract fixes a term of full-time, continuous employment in excess of six months or, if a term is not fixed, full-time employment continues for longer than six months, in which case membership shall be effective not later than the first day of the first pay period of the seventh month of employment.

(B) The person works more than 125 days, if employed on a per diem basis or, if employed on other than a per diem basis, 1,000 hours within the fiscal year, in which case, membership shall be effective not later than the first day of the first pay period of the month following the month in which 125 days or 1,000 hours of service were completed. For purposes of this subdivision, "day" means each eight-hour period of employment worked by an employee paid on a per diem basis so that membership is effective after he or she has completed 1,000 hours of compensated service in a fiscal year.

(C) The person is employed by the Department of Forestry and Fire Protection in one of the positions that provide state safety membership pursuant to Section 20017.6 or state peace officer/firefighter membership pursuant to Section 20017.96.

(4) He or she is a temporary faculty member of the California State University who works two consecutive semesters or three consecutive quarters at half-time or more and is not otherwise excluded pursuant to this article, in which case, membership shall be effective with the start of the next consecutive semester or quarter if the appointment requires service of half-time or more.

(5) He or she is a member of the Board of Prison Terms, the State Personnel Board, or the State Air Resources Board and elects to become a member pursuant to Section 20360.

(6) He or she is participating in partial service retirement, pursuant to Article 1.7 (commencing with Section 19996.30) of Chapter 7 of Part 2.6.

(7) He or she is included by specific provision of the board relating to the exclusion of less than full-time employees.

(b) This section shall supersede any contract provision excluding persons in any temporary or seasonal employment basis and shall apply only to persons entering employment on and after January 1, 1975. Except as provided in Section 20492, no contract or contract amendment entered into after January 1, 1981, shall contain any provision excluding persons on an irregular employment basis.

SEC. 12. Section 20336 of the Government Code is repealed.

SEC. 13. Section 20652.5 of the Government Code is repealed.

SEC. 14. Section 20654 of the Government Code is amended to read:

20654. Subject to regulations adopted by the board, a member may file an election with the board to redeposit in the retirement fund, in a lump sum or by installment payments, (1) an amount equal to the accumulated contributions that he or she has withdrawn at one or more terminations of service, or for one withdrawal at a time, but in reverse chronological order in which they occurred, and (2) an amount equal to the interest that would have been credited to his or her account to the date of completion of payments had the contributions not been withdrawn, and (3) if he or she elects to redeposit in other than one sum, interest on the unpaid balance of the amount payable to the retirement fund, beginning on the date of the election to redeposit, as if the member interest crediting rate in effect on the date of the election to redeposit had been and continued to be in effect through the completion of the payments.

SEC. 15. Section 21235.5 of the Government Code is amended to read:

21235.5. (a) On an annual basis, the board shall transfer the lesser of either of the following:

(1) The amount necessary to increase all monthly allowances paid by the system to 75 percent of the purchasing power of the initial monthly allowances.

(2) Up to 1.1 percent of the net earnings on member contributions, as determined by Section 20132.6, to a supplemental account to fund the purchasing power protection allowance.

(b) The funds so transferred to the supplemental account shall be utilized to increase all monthly allowances paid by the system up to a maximum of 75 percent of the purchasing power, as determined by the board, of the initial monthly allowances that were received by every retired person or survivor or beneficiary of a state, school, or local member or retired person who was eligible to receive any allowance at the end of each fiscal year. Funds remaining in the account after the payment of benefits under this section shall be transferred to the employer accounts.

SEC. 16. Section 21361.2 is added to the Government Code, to read:

21361.2. Notwithstanding Section 20132.6, for member deaths occurring on or after January 1, 1994, the accumulated contributions of a member payable pursuant to subdivision (a) of Section 21361 shall be increased by a factor determined by the board that is based on the difference, at each June 30 subsequent to January 1, 1994, between the lesser of the current interest rate or the current annual interest rate and the 6 percent interest crediting rate on member contributions.

CHAPTER 1169

An act to amend Sections 40430, 40502, 40973, 41780.2, 41781.2, 41782, 41794, 41821, 43600, and 43602 of, to add Sections 40120.1, 40976, and 41791.5 to, and to repeal and add Section 43604 of, the Public Resources Code, relating to solid waste, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 40120.1 is added to the Public Resources Code, to read:

40120.1. Except as otherwise provided in Part 2 (commencing with Section 40900), for purposes of Part 2 (commencing with Section 40900), "disposal" means the management of solid waste through landfill disposal or transformation at a permitted solid waste facility.

SEC. 2. Section 40430 of the Public Resources Code is amended to read:

40430. The board shall appoint an executive director who may be exempt from civil service laws. The board may delegate any power, duty, purpose, function, and jurisdiction to the executive director which the board determines to be appropriate. The board shall prescribe the duties and fix the salary of the executive director. The executive director shall perform and discharge the powers, duties, purposes, functions, and jurisdiction vested in the board and delegated to the executive director by the board. The executive director may redelegate any of the powers, duties, purposes, functions, and jurisdiction which are delegated to him or her by the board to his or her subordinates.

SEC. 3. Section 40502 of the Public Resources Code is amended to read:

40502. (a) The board shall adopt rules and regulations, as necessary, to carry out this division in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The board shall make available to any person, upon request, copies of proposed regulations.

(b) (1) The board shall adopt regulations regarding city, county, and regional agency source reduction and recycling elements and nondisposal facility elements, required to be submitted to the board pursuant to Section 41791.5, which shall be deemed to be emergency regulations and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of public peace, health and safety, or general welfare. These emergency regulations shall not alter the deadlines for the submission of countywide and regional agency integrated waste management plans specified in

Section 41791.

(2) Prior to adopting the emergency regulations required pursuant to paragraph (1), the board shall do all of the following:

(A) Make available to any person, upon request, a copy of the proposed regulations at least 30 days prior to adoption.

(B) Hold at least two public hearings in different parts of the state in order to receive public comment on the regulations.

(C) Publish notice in the California Regulatory Notice Register of the proposed adoption of the emergency regulations, the identity of a contact person at the board from whom copies of the proposed regulations may be obtained, and the dates, times, and locations of the public hearings that are required pursuant to subparagraph (B).

(c) Any emergency regulations adopted by the board pursuant to paragraph (1) of subdivision (b) shall be filed with the Office of Administrative Law at the earliest feasible date, but not later than December 31, 1993. Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, any emergency regulations adopted pursuant to paragraph (1) of subdivision (b) shall remain in effect for not more than three years from the date of adoption.

SEC. 4. Section 40973 of the Public Resources Code is amended to read:

40973. (a) The regional agency, and not the cities or counties which are member agencies of the regional agency, may be responsible for compliance with Article 1 (commencing with Section 41780) of Chapter 6 if specified in the agreement pursuant to which the regional agency is formed.

(b) Notwithstanding Section 41782, if a regional agency has been specified in the regional agency formation agreement as the responsible party for compliance with Article 1 (commencing with Section 41780) of Chapter 6 of Part 1, neither the regional agency nor any member agency of the regional agency shall be eligible for a reduction of the diversion requirements of Section 41780.

(c) (1) If, pursuant to subdivision (a), a regional agency is specified in the regional agency formation agreement as the responsible party for compliance with Article 1 (commencing with Section 41780) of Chapter 6 of Part 1, the regional agency shall not be comprised of more than two counties and all of the cities within those two counties, except as otherwise authorized by the board.

(2) The board may authorize the formation of a regional agency that exceeds two counties and all of the cities within those two counties, for purposes of compliance with Article 1 (commencing with Section 41780) of Chapter 6 of Part 1, if the board finds that the formation of such a regional agency will not adversely affect compliance with this part.

SEC. 5. Section 40976 is added to the Public Resources Code, to read:

40976. A city, county, or regional agency may enter into a memorandum of understanding with another city, county, regional agency, agency formed under a joint exercise of powers agreement,

or district established to manage solid waste for the purpose of preparing and implementing source reduction and recycling elements, household hazardous waste elements, or a countywide or regional agency integrated waste management plan.

SEC. 6. Section 41770.5 is added to the Public Resources Code, to read:

41770.5. A city, county, or regional agency may revise or amend its source reduction and recycling element and household hazardous waste element at any time to incorporate new or revised data, to give descriptions of new or revised source reduction, recycling, or composting programs, or to make other changes that are necessary to comply with the diversion requirements of Section 41780.

SEC. 7. Section 41780.2 of the Public Resources Code is amended to read:

41780.2. (a) Each city, county, or member agency of a regional agency shall determine the amount of reduction in solid waste disposal and the amount of additional diversion required from the base-year amounts by using the methods set forth in this section.

(b) The city, county, or member agency of a regional agency shall multiply the total amount of base-year solid waste generation, as adjusted using the methods described in subdivision (c) of Section 41780.1, by 0.75 to determine the maximum amount of total disposal allowable in 1995 to meet the diversion requirements of Section 41780.

(c) The city, county, or member agency of a regional agency shall multiply the total amount of base-year solid waste generation, as adjusted using the methods described in subdivision (c) of Section 41780.1, by 0.50 to determine the maximum amount of total disposal allowable in 2000 to meet the diversion requirements of Section 41780.

(d) The city, county, or member agency of a regional agency shall multiply the total amount of base-year solid waste generation, as adjusted using the methods described in subdivision (c) of Section 41780.1, by 0.25 to determine the minimum amount of total diversion needed in 1995 to meet the diversion requirements of Section 41780.

(e) The city, county, or member agency of a regional agency shall multiply the total amount of base-year solid waste generation, as adjusted using the methods described in subdivision (c) of Section 41780.1, by 0.50 to determine the minimum amount of total diversion needed in 2000 to meet the diversion requirements of Section 41780.

(f) The city, county, or member agency of a regional agency shall subtract the total amount of base-year existing diversion from the minimum total diversion required as determined in subdivision (d) or (e) to determine the amount of additional diversion needed to meet the diversion requirements of Section 41780. This amount of additional diversion shall be equal to the minimum amount of additional reduction in disposal amounts which is needed to comply with Section 41780.

SEC. 8. Section 41781.2 of the Public Resources Code is amended

to read:

41781.2. (a) (1) It is the intent of the Legislature in enacting this section not to require cities, counties, and regional agencies to revise source reduction and recycling elements prior to their submittal to the board for review and approval, except as the elements would otherwise be required to be revised by the board pursuant to this part. Pursuant to Sections 41801.5 and 41811.5, compliance with this section shall be determined by the board when source reduction and recycling elements are submitted to the board pursuant to Section 41791.5. However, any city or county may choose to revise its source reduction and recycling element or any of its components prior to board review of the source reduction and recycling element for the purpose of complying with this section.

(2) It is further the intent of the Legislature in enacting this section to ensure that compliance with the diversion requirements of Section 41780 shall be accurately determined based upon a correlation between solid waste which was disposed of at permitted disposal facilities and diversion claims which are subsequently made for that solid waste.

(b) For the purposes of this section, the following terms have the following meaning:

(1) "Action by a city, county, regional, or local governing body" means franchise or contract conditions, rate or fee schedules, zoning or land use decisions, disposal facility permit conditions, or activities by a waste hauler, recycler, or disposal facility operator acting on behalf of a city, county, regional agency, or local governing body, or other action by the local governing body if the local government action is specifically related to the claimed diversion.

(2) "Scrap metal" includes ferrous metals, nonferrous metals, aluminum scrap, other metals, and auto bodies, but does not include aluminum cans, steel cans, or bimetal cans.

(3) "Inert solids" includes rock, concrete, brick, sand, soil, fines, asphalt, and unsorted construction and demolition waste.

(4) "Agricultural wastes" includes solid wastes of plant and animal origin, which result from the production and processing of farm or agricultural products, including manures, orchard and vineyard prunings, and crop residues, which are removed from the site of generation for solid waste management. Agriculture refers to SIC Codes 011 to 0291, inclusive.

(c) For purposes of determining the base amount of solid waste from which the diversion requirements of this article shall be calculated, "solid waste" does not include the diversion of agricultural wastes; inert solids, including inert solids used for structural fill; discarded, white-coated, major appliances; and scrap metals; unless all of the following criteria are met:

(1) The city, county, or regional agency demonstrates that the material was diverted from a permitted disposal facility through an action by the city, county, or regional agency which specifically resulted in the diversion.

(2) The city, county, or regional agency demonstrates that, prior to January 1, 1990, the solid waste which is claimed to have been diverted was disposed of at a permitted disposal facility in the quantity being claimed as diversion. If historical disposal data is not available, that demonstration may be based upon information available to the city, county, or regional agency which substantiates a reasonable estimate of disposal quantities which is as accurate as is feasible in the absence of historical disposal data.

(3) The city, county, or regional agency is implementing, and will continue to implement, source reduction, recycling, and composting programs, as described in its source reduction and recycling element.

(d) If a city, county, or regional agency source reduction and recycling element submitted pursuant to this chapter includes the diversion of any of the wastes specified in subdivision (c) for years preceding the year commencing January 1, 1990, that diversion shall not apply to the diversion requirements of Section 41780, unless the criteria in subdivision (c) are met.

(e) If a city, county, or regional agency source reduction and recycling element submitted pursuant to this chapter does not contain information sufficient for the city, county, or regional agency to demonstrate to the board whether the criteria in subdivision (c) have been met, the city, county, or regional agency may provide additional information following board review of the source reduction and recycling element pursuant to Section 41791.5. In providing the additional information, Sections 41801.5 and 41811.5 shall apply.

(f) In demonstrating whether the requirements of paragraph (1) of subdivision (c) have been met, the city, county, or regional agency shall submit information to the board on local government programs which are specifically related to the claimed diversion.

SEC. 9. Section 41782 of the Public Resources Code is amended to read:

41782. (a) Except as specified in subdivision (b) of Section 40973, the board may reduce the diversion requirements of Section 41780 if a city or county demonstrates, and the board concurs, based upon substantial evidence in the record, that achievement of the diversion requirements of Section 41780 is not feasible due to both of the following circumstances:

(1) The small geographic size or low population density of the city or county.

(2) The small quantity of solid waste generated within the city or county.

(b) The board shall establish alternative, but less comprehensive, requirements for a city or county that is granted a reduction pursuant to this section which will ensure compliance with this division.

(c) If a city or county which receives or has received a reduction in diversion requirements pursuant to this section is or becomes a member agency of a regional agency for the purpose of complying

with the diversion requirements of Section 41780, a reduction in those requirements previously granted by the board pursuant to subdivision (a) shall no longer apply.

(d) Notwithstanding subdivision (a), it is the intent of the Legislature that any city or county that is granted a reduction in diversion requirements shall establish programs to meet the requirements of this division to the maximum extent feasible.

SEC. 10. Section 41791.5 is added to the Public Resources Code, to read:

41791.5. (a) Notwithstanding Section 41791, each city, county, and regional agency shall submit its source reduction and recycling element and its nondisposal facility element to the board in accordance with the following schedule:

(1) For any jurisdiction with less than eight years of remaining disposal site capacity, the source reduction and recycling element and the nondisposal facility element shall be submitted on or before April 30, 1994.

(2) For any jurisdiction with eight or more years, but less than 15 years, of remaining disposal site capacity, the source reduction and recycling element and the nondisposal facility element shall be submitted on or before August 31, 1994.

(3) For any jurisdiction with 15 or more years of remaining disposal site capacity, the source reduction and recycling element and the nondisposal facility element shall be submitted on or before December 31, 1994.

(b) For purposes of this section, "remaining disposal site capacity" means capacity remaining as of January 1, 1990. For each jurisdiction, disposal site capacity shall be deemed to be the countywide permitted disposal site capacity.

(c) Notwithstanding Section 41791, a county or regional agency that has adopted a countywide or regional agency integrated waste management plan may submit the plan and its elements to the board for review and approval pursuant to the schedule contained in subdivision (a).

SEC. 11. Section 41794 of the Public Resources Code is amended to read:

41794. Any city may submit its city source reduction and recycling element or nondisposal facility element to the board for review before the dates in the schedule in Section 41791.5.

SEC. 12. Section 41821 of the Public Resources Code is amended to read:

41821. (a) Each city, county, and regional agency shall submit a report to the board summarizing its progress in achieving the diversion requirements of Section 41780. The report shall be submitted with the source reduction and recycling element required pursuant to Section 41791.5, or by October 1, 1994, except that jurisdictions which are required to submit a source reduction and recycling element by December 31, 1994, pursuant to paragraph (3) of subdivision (a) of Section 41791.5, shall submit the report not later

than October 1, 1994. The report shall not be used for purposes of enforcing the requirements of this division.

(b) The board shall, by December 30, 1993, prepare a brief reporting form and shall provide the form to each jurisdiction for use in submitting the following information:

(1) Any change in the tonnage of solid waste disposed of by the jurisdiction when compared to the information reported for the base year, as defined in Section 41781.

(2) Any change in the tonnage of solid waste diverted through facilities or programs operated by the jurisdiction.

(3) A status report on programs described in the source reduction and recycling element.

(c) The board may request additional information as necessary, but shall not require any jurisdiction to prepare a solid waste generation study or other significant analysis.

(d) It is the intent of the Legislature that the board, in preparing the reporting form pursuant to subdivision (b), only require information which is necessary to determine the progress that a jurisdiction is making toward meeting the diversion requirements of Section 41780 and to provide assistance to local governments in the preparation of the forms so as to minimize to the greatest extent practicable any additional time and expense to local governments.

(e) On or before January 1, 1995, the board shall submit to the Governor and the Legislature a report summarizing information from the reports submitted pursuant to subdivision (a) describing city, county, regional agency, and statewide progress in achieving the diversion requirements of Section 41780.

(f) Each year following the board's approval of a city, county, or regional agency source reduction and recycling element or a countywide or regional agency integrated waste management plan, the city, county, or regional agency shall submit a report to the board summarizing its progress in reducing solid waste as required by Section 41780. The report shall describe any new or revised source reduction, recycling, or composting programs, or any other changes which have been implemented for purposes of complying with Section 41780. The report shall include information on increases in waste generated or disposed of due to increases or decreases in the quantity of waste caused only by changes in population or changes in the number or the size of governmental, industrial, or commercial operations in the city, county, or regional agency so that the board may determine if the source reduction and recycling requirements of Section 41780 need to be revised. In preparing annual reports pursuant to this section, cities, counties, and regional agencies shall use disposal information, and information on the diversion programs which the city, county, or regional agency operates, to track the success of diversion programs.

SEC. 13. Section 43600 of the Public Resources Code is amended to read:

43600. (a) Except as otherwise provided in subdivision (b), any

person owning or operating a solid waste landfill, as defined in Section 46027, shall, with the closure plan and postclosure maintenance plan submitted pursuant to subdivision (b) of Section 43501, submit to the board evidence of financial ability to provide for the cost of closure and postclosure maintenance, in an amount equal to the estimated cost of closure and 15 years of postclosure maintenance, contained in the closure plan and the postclosure maintenance plan submitted.

(b) On and after the effective date of the federal regulations set forth in Subpart G (commencing with Section 258.70) of Part 258 of Title 40 of the Code of Federal Regulations, any person owning or operating a solid waste landfill, shall, with the closure plan and postclosure maintenance plan submitted pursuant to subdivision (b) of Section 43501, submit to the board evidence of financial ability to provide for closure and postclosure maintenance, in an amount equal to the estimated cost of closure and 30 years of postclosure maintenance, contained in the closure plan and the postclosure maintenance plan submitted.

SEC. 14. Section 43602 of the Public Resources Code is amended to read:

43602. (a) Except as provided in subdivision (b), evidence of financial ability required of an owner or operator of a solid waste landfill, as defined in Section 46027, shall be adjusted to equal the estimated costs of closure and 15 years of postclosure maintenance in the approved plans. Revisions in the plans prior to closure shall be accompanied by corresponding revisions in cost estimates and financial assurances.

(b) On and after the effective date of the federal regulations set forth in Subpart G (commencing with Section 258.70) of Part 258 of Title 40 of the Code of Federal Regulations, the evidence of financial ability required of an owner or operator of a solid waste landfill shall be adjusted to equal the estimated costs of closure and 30 years of postclosure maintenance in the approved plans. Revisions in the plans prior to closure shall be accompanied by corresponding revisions in cost estimates and financial assurances.

SEC. 15. Section 43604 of the Public Resources Code is repealed.

SEC. 16. Section 43604 is added to the Public Resources Code, to read:

43604. (a) During the closure and postclosure maintenance period, a solid waste landfill owner or operator shall maintain evidence of financial ability sufficient to pay postclosure maintenance costs, except that the owner or operator may request reimbursement for costs of postclosure maintenance as they are incurred if the remaining amount of funds is at least equal to the remaining postclosure maintenance cost.

(b) Notwithstanding the effective date of this section, owners and operators shall be required to comply with this section on the effective date of those regulations set forth in Part 258 (commencing with Section 258.1) of Title 40 of the Code of Federal Regulations.

SEC. 17. (a) The board may reduce the diversion requirements of Section 41780 for a portion of the unincorporated part of a county of the seventh class, as specified in Section 28028 of the Government Code, if the county demonstrates, and the board concurs, based upon substantial evidence in the record, that the achievement of those diversion requirements is not feasible in that area due to both of the following circumstances:

(1) The low population density of the area.

(2) The small quantity of waste generated within the area.

(b) The board shall establish alternative, but less comprehensive, requirements for the area if the board grants a reduction in diversion requirements, which will ensure compliance with this division.

(c) Notwithstanding subdivision (a), it is the intent of the Legislature that any area that is granted a reduction in diversion requirements shall establish programs to meet the requirements of this division to the maximum extent feasible.

SEC. 18. 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. 19. This 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 timely implementation of state law intended to promote the reduction and recycling of solid waste and the safe disposal of solid waste, including household hazardous waste, thereby protecting health and safety and the environment, it is necessary that this act take effect immediately.

CHAPTER 1170

An act to repeal Chapter 3.7 (commencing with Section 5700) of Division 3 of the Business and Professions Code, to add Title 2.95 (commencing with Section 1812.600) to Part 4 of Division 3 of the Civil Code, and to amend Section 535 of the Penal Code, relating to auctions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Chapter 3.7 (commencing with Section 5700) of Division 3 of the Business and Professions Code is repealed.

SEC. 2. Title 2.95 (commencing with Section 1812.600) is added to Part 4 of Division 3 of the Civil Code, to read:

TITLE 2.95. AUCTIONEER AND AUCTION COMPANIES

1812.600. (a) Every auctioneer and auction company shall maintain a bond issued by a surety company admitted to do business in this state. The principal sum of the bond shall be twenty thousand dollars ($20,000). A copy of the bond shall be filed with the Secretary of State. The Secretary of State shall charge a filing fee to cover the cost of filing the bond or the deposit filed in lieu of a bond as set forth in Section 995.710 of the Code of Civil Procedure.

(b) The bond required by this section shall be in favor of, and payable to, the people of the State of California and shall be for the benefit of any person or persons damaged by any fraud, dishonesty, misstatement, misrepresentation, deceit, unlawful acts or omissions, or failure to provide the services of the auctioneer or auction company in performance of the auction by the auctioneer or auction company or its agents, representatives, or employees while acting within the scope of their employment.

(c) (1) No auctioneer or auction company shall conduct any business without having a current surety bond in the amount prescribed by this section and without filing a copy of the bond with the Secretary of State.

(2) Thirty days prior to the cancellation or termination of any surety bond required by this section, the surety shall send a written notice of that cancellation or termination to both the auctioneer or auction company and the Secretary of State, identifying the bond and the date of cancellation or termination.

(3) If any auctioneer or auction company fails to obtain a new bond and file a copy of that bond with the Secretary of State by the effective date of the cancellation or termination of the former bond, the auctioneer or auction company shall cease to conduct any business unless and until that time as a new surety bond is obtained and a copy of that bond is filed with the Secretary of State.

(d) (1) A deposit may be made in lieu of a bond as set forth in Section 995.710 of the Code of Civil Procedure. When a deposit is made in lieu of the bond, the person asserting the claim against the deposit shall establish the claim by furnishing evidence to the Secretary of State of a money judgment entered by a court together with evidence that the claimant is a person described in subdivision (b).

(2) Approval and payment of the claims by the Secretary of State shall be in accordance with subdivisions (b), (c), (d), and (e) of Section 1812.105.

(3) When a deposit has been made in lieu of bond, the amount of the deposit shall not be subject to attachment, garnishment, or execution with respect to an action or judgment against the auctioneer or auction company, other than as to that amount that is no longer needed or required for the purpose of this section which otherwise would be returned to the auctioneer or auction company by the Secretary of State.

(4) When any claim or claims against a deposit in lieu of bond have been paid so as to reduce the principal amount of the deposit remaining available to pay claims below the principal amount required by this section, the auctioneer or auction company shall cease to conduct any business unless and until that time as sufficient additional moneys have been deposited in the agency's deposit account with the Secretary of State to bring the deposit account balance available for the payment of claims up to the minimum amount required by this section.

(e) If an auctioneer fails to perform any of the duties specifically imposed upon him or her pursuant to this title, any person may maintain an action for enforcement of those duties or to recover a civil penalty in the amount of one thousand dollars ($1,000), or for both enforcement and recovery.

(f) In any action to enforce these duties or to recover civil penalties, or for both enforcement and recovery, the prevailing plaintiff shall be entitled to reasonable attorney's fees and costs, in addition to the civil penalties provided under subdivision (e).

(g) The Secretary of State shall enforce the provisions of this title that govern the filing and maintenance of bonds.

(h) Notwithstanding the repeal of Chapter 3.7 (commencing with Section 5700) of Division 3 of the Business and Professions Code by the act adding this chapter, any cash security in lieu of the surety bond formerly required and authorized by former Chapter 3.7 (commencing with Section 5700) of Division 3 of the Business and Professions Code, shall be transferred to, and maintained by, the Secretary of State.

1812.601. (a) "Advertisement" means any of the following:

(1) Any written or printed communication for the purpose of soliciting, describing, or offering to act as an auctioneer or provide auction company services, including any brochure, pamphlet, newspaper, periodical, or publication.

(2) A telephone or other directory listing caused or permitted by an auctioneer or auction company to be published that indicates the offer to practice auctioneering or auction company services.

(3) A radio, television, or similar airwave transmission that solicits or offers the practice of auctioneering or auction company services.

(b) "Auction" means a sale transaction conducted by means of oral or written exchanges between an auctioneer and the members

of his or her audience, which exchanges consist of a series of invitations for offers for the purchase of goods made by the auctioneer and offers to purchase made by members of the audience and culminate in the acceptance by the auctioneer of the highest or most favorable offer made by a member of the participating audience. However, auction does not include a sale of real estate or a sale in any sequence of real estate with personal property or fixtures or both in a unified sale pursuant to subparagraph (ii) of paragraph (a) of subdivision (4) of Section 9501 of the Commercial Code.

(c) "Auction company" means any person who arranges, manages, sponsors, advertises, accounts for the proceeds of, or carries out auction sales at locations, including, but not limited to, any fixed location, including an auction barn, gallery place of business, sale barn, sale yard, sale pavilion, and the contiguous surroundings of each.

(d) "Auctioneer" means any individual who is engaged in, or who by advertising or otherwise holds himself or herself out as being available to engage in, the calling for, the recognition of, and the acceptance of, offers for the purchase of goods at an auction.

(e) "Employee" means an individual who works for an employer, is listed on the employer's payroll records, and is under the employer's control.

(f) "Employer" means a person who employs an individual for wages or salary, lists the individual on the person's payroll records, and withholds legally required deductions and contributions.

(g) "Goods" means any goods, wares, chattels, merchandise, or other personal property, including domestic animals and farm products.

(h) "Person" means an individual, corporation, partnership, trust, including a business trust, firm, association, organization, or any other form of business enterprise.

1812.602. The superior court for the county in which any person has engaged or is about to engage in any act that constitutes a violation of this title may, upon a petition filed by any person, issue an injunction or other appropriate order restraining the violative conduct. Proceedings under this section shall be governed by 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.

1812.603. (a) The superior court for the county in which any person has engaged in any act that constitutes a violation of this title may, upon a petition filed by any person, order the person who committed the violation to make restitution to any person injured as a result of the violation.

(b) The court may order any person against whom an injunction or restraining order pursuant to subdivision (a), or an order requiring restitution pursuant to subdivision (b), is directed, to reimburse the petitioner for expenses incurred in the investigation

related to its petition.

(c) The remedies set forth in this section are in addition to, and not a limitation on, the authority provided for in any other section of this code.

1812.604. Except as otherwise provided in this title, any person who violates any provision of this title is guilty of a misdemeanor, which offense is punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in a county jail for not more than one year, or by both that fine and imprisonment. In addition, upon a conviction of any violation of this chapter, or of any crime related to the conduct of an auctioneer, the court may issue an injunction and prohibit the convicted person from acting as an auctioneer or an auction company in this state, in which case the court shall inform the Secretary of State of that action.

1812.605. In conducting the business of auctioneering, each auctioneer and auction company, and the company's owners, partners, officers, agents, and employees, shall do all of the following:

(a) Follow all lawful requests of the owner or consignor of the goods being sold at auction with regard to the sale of those goods.

(b) Perform his or her duties so that the highest or most favorable offer made by a member of his or her audience is accepted, except to the extent that any item or sale is offered with reserve or subject to confirmation.

(c) Truthfully represent the goods to be auctioned.

(d) Otherwise perform his or her duties in accordance with the laws of this state.

1812.606. Every auctioneer who operates his or her own auction company as a sole proprietor, and every auction company, together with its owners, partners, and officers, that employs an auctioneer, shall be responsible for all violations committed by the auctioneer or by any company employee in the conduct of auction business. An auctioneer who is employed by an auctioneer or auction company shall be responsible for all violations committed by him or her in the conduct of auction business.

It is a violation of this title for any auctioneer or auction company, or the company's owners, partners, and officers, to direct or knowingly permit any violation of this title by any auctioneer employed by or under contract with that auctioneer or auction company, or by any owner, partner, officer, agent, or employee of the auction company.

1861.607. Every auction company and auctioneer shall do all of the following:

(a) Disclose his or her name, trade or business name, telephone number, and bond number in all advertising of auctions. A first violation of this subdivision is an infraction subject to a fine of fifty dollars ($50); a second violation is subject to a fine of seventy-five dollars ($75); and a third or subsequent violation is subject to a fine of one hundred dollars ($100). This section shall not apply to business cards, business stationery, or to any advertisement which does not

specify an auction date.

(b) Post a sign, the dimensions of which shall be at least 18 inches by 24 inches, at the main entrance to each auction, stating that the auction is being conducted in compliance with Section 2328 of the Commercial Code, Section 535 of the Penal Code, and the provisions of the California Civil Code. A first violation of this subdivision is an infraction subject to a fine of fifty dollars ($50); a second violation is subject to a fine of seventy-five dollars ($75); and a third or subsequent violation is subject to a fine of one hundred dollars ($100).

(c) Post or distribute to the audience the terms, conditions, restrictions, and procedures whereby goods will be sold at the auction, and announce any changes to those terms, conditions, restrictions, and procedures prior to the beginning of the auction sale. A first violation of this subdivision is an infraction subject to a fine of fifty dollars ($50); a second violation is subject a fine of one hundred dollars ($100); and a third or subsequent violation is subject to a fine of two hundred fifty dollars ($250).

(d) Notify the Secretary of State of any change in address of record within 30 days of the change. A violation of this subdivision is an infraction subject to a fine of fifty dollars ($50).

(e) Notify the Secretary of State of any change in the officers of a corporate license within 30 days of the change. A violation of this subdivision is an infraction subject to a fine of fifty dollars ($50).

(f) Notify the Secretary of State of any change in the business or trade name of the auctioneer or auction company within 30 days of the change. A violation of this subdivision is an infraction subject to a fine of fifty dollars ($50).

(g) Keep and maintain, at the auctioneer's or auction company's address of record, complete and correct records and accounts pertaining to the auctioneer's or auction company's activity for a period of not less than two years. The records shall include the name and address of the owner or consignor and of any buyer of goods at any auction sale engaged in or conducted by the auctioneer or auction company, a description of the goods, the terms and conditions of the acceptance and sale of the goods, all written contracts with owners and consignors, and accounts of all moneys received and paid out, whether on the auctioneer's or auction company's own behalf or as agent, as a result of those activities. A first violation of this subdivision is a misdemeanor subject to a fine of five hundred dollars ($500); and a second or subsequent violation is subject to a fine of one thousand dollars ($1,000).

(h) Within 30 working days after the sale transaction, provide, or cause to be provided, an account to the owner or consignor of all goods that are the subject of an auction engaged in or conducted by the auctioneer or auction company. A first violation of this subdivision is a misdemeanor subject to a fine of five hundred dollars ($500); and a second or subsequent violation is subject to a fine of one thousand dollars ($1,000).

(i) Within 30 working days after a sale transaction of goods, pay or cause to be paid, all moneys and proceeds due to the owner or the consignor of all goods that were the subject of an auction engaged in or conducted by the auctioneer or auction company, unless delay is compelled by legal proceedings or the inability of the auctioneer or auction company, through no fault of his or her own, to transfer title to the goods or to comply with any provision of this chapter, the Commercial Code, the Code of Civil Procedure, or any other applicable provision of law. A first violation of this subdivision is a misdemeanor subject to a fine of one thousand dollars ($1,000); a second violation is subject to a fine of one thousand five hundred dollars ($1,500); and a third or subsequent violation is subject to a fine of two thousand dollars ($2,000).

(j) Maintain the funds of all owners, consignors, buyers, and other clients and customers, separate from his or her personal funds and accounts. A violation of this subdivision is an infraction subject to a fine of two hundred fifty dollars ($250).

(k) Immediately prior to offering any item for sale, disclose to the audience the existence and amount of any liens or other encumbrances on the item, unless the item is sold as free and clear. For the purposes of this subdivision, an item is "free and clear" if all liens and encumbrances on the item are to be paid prior to the transfer of title. A violation of this subdivision is an infraction subject to a fine of two hundred fifty dollars ($250) in addition to the requirement that the buyer be refunded, upon demand, the amount paid for any item that is the subject of the violation.

(*l*) Within two working days after an auction sale, return the blank check or deposit of each buyer who purchased no goods at the sale. A first violation of this subdivision is an infraction subject to a fine of one hundred dollars ($100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars ($250).

(m) Within 30 working days of any auction sale, refund that portion of the deposit of each buyer that exceeds the cost of the goods purchased, unless delay is compelled by legal proceedings, by the inability of the auctioneer or auction company, through no fault of his or her own, to transfer title to the goods or to comply with any provision of this chapter, the Commercial Code, the Code of Civil Procedure, or other applicable provisions of law, or unless the buyer violated the terms of a written agreement that he or she take possession of purchased goods within a specified period of time. A first violation of this subdivision is an infraction subject to a fine of one hundred dollars ($100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars ($250).

1861.608. In addition to other requirements and prohibitions of this title, it is a violation of this title for any person to do any of the following:

(a) Fail to comply with any provision of this code, or with any provision of the Vehicle Code, the Commercial Code, any regulation of the Secretary of State, the Code of Civil Procedure, the Penal

Code, or any law administered by the State Board of Equalization, relating to the auctioneering business, including, but not limited to, sales and the transfer of title of goods.

(b) Aid or abet the activity of any other person that violates any provision of this title. A violation of this subdivision is a misdemeanor subject to a fine of one thousand dollars ($1,000).

(c) Place or use any misleading or untruthful advertising or statements or make any substantial misrepresentation in conducting auctioneering business. A first violation of this subdivision is a misdemeanor subject to a fine of five hundred dollars ($500); and a second or subsequent violation is subject to a fine of one thousand dollars ($1,000).

(d) Sell goods at auction before the auctioneer or auction company involved has first entered into a written contract with the owner or consignor of the goods, which contract sets forth the terms and conditions upon which the auctioneer or auction company accepts the goods for sale. The written contract shall include all of the following:

(1) The auctioneer's or auction company's name, trade or business name, business address, and business telephone number.

(2) An inventory of the item or items to be sold at auction.

(3) A description of the services to be provided and the agreed consideration for the services, which description shall explicitly state which party shall be responsible for advertising and other expenses.

(4) The approximate date or dates when the item or items will be sold at auction.

(5) A statement as to which party shall be responsible for insuring the item or items against loss by theft, fire, or other means.

(6) A disclosure that the auctioneer or auction company has a bond on file with the Secretary of State. A first violation of this subdivision is an infraction subject to a fine of two hundred fifty dollars ($250); a second violation is subject to a fine of five hundred dollars ($500); and a third or subsequent violation is subject to a fine of one thousand dollars ($1,000).

(e) Sell goods at auction before the auctioneer or auction company involved has first entered into a written contract with the auctioneer who is to conduct the auction. A first violation of this subdivision is an infraction subject to a fine of one hundred dollars ($100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars ($250).

(f) Fail to reduce to writing all amendments or addenda to any written contract with an owner or consignor or an auctioneer. A first violation of this subdivision is an infraction subject to a fine of one hundred dollars ($100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars ($250).

(g) Fail to abide by the terms of any written contract required by this section. A first violation of this subdivision is an infraction subject to a fine of one hundred dollars ($100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars ($250).

(h) Cause or allow any person to bid at a sale for the sole purpose of increasing the bid on any item or items being sold by the auctioneer, except as authorized by Section 2328 of the Commercial Code or by this title. A violation of this subdivision includes, but is not limited to, either of the following:

(1) Stating any increased bid greater than that offered by the last highest bidder when, in fact, no person has made such a bid.

(2) Allowing the owner, consignor, or agent thereof, of any item or items to bid on the item or items, without disclosing to the audience that the owner, consignor, or agent thereof has reserved the right to so bid.

A violation of this subdivision is an infraction subject to a fine of one hundred dollars ($100).

(i) Knowingly misrepresent the nature of any item or items to be sold at auction, including, but not limited to, age, authenticity, value, condition, or origin. A violation of this subdivision is an infraction subject to a fine of two hundred fifty dollars ($250); in addition, it shall be required that the buyer of the misrepresented item be refunded the purchase price of the item or items within 24 hours of return to the auctioneer or auction company of the item by the buyer, provided that the item is returned within five days after the date of the auction sale.

(j) Misrepresent the terms, conditions, restrictions, or procedures under which goods will be sold at auction. A violation of this subdivision is an infraction subject to a fine of seventy-five dollars ($75).

(k) Sell any item subject to sales tax without possessing a valid and unrevoked seller's permit from the State Board of Equalization. A violation of this subdivision is an infraction subject to a fine of five hundred dollars ($500).

SEC. 3. Section 535 of the Penal Code is amended to read:

535. Every person who obtains any money or property from another, or obtains the signature of another to any written instrument, the false making of which would be forgery, by means of any false or fraudulent sale of property or pretended property, by auction, or by any of the practices known as mock auctions, is punishable by imprisonment in the state prison, or in the county jail not exceeding one year, or by fine not exceeding two thousand dollars ($2,000), or by both such fine and imprisonment, and, in addition, is disqualified for a period of three years from acting as an auctioneer in this state.

SEC. 4. In enacting this act, the Legislature hereby expresses its intent to completely occupy the field of auctioneer licensing to preempt any local regulation affecting auctioneer licensing. Notwithstanding any other provision of law, the fines authorized by this act shall be paid to the county treasurer in the jurisdiction in which the fine or penalty is levied to be used exclusively to the benefit of the district attorney of that county.

SEC. 5. 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. 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:

In order to facilitate the transfer of authority for the licensing of auctioneers at the earliest possible time and to provide for regulation of that occupation, it is necessary for this act to take effect immediately.

CHAPTER 1171

An act to add Section 3.2 to, and to repeal Sections 3.1 and 32.5 of, the Mojave Water Agency Law (Chapter 2146 of the Statutes of 1959), relating to the Mojave Water Agency.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. The Legislature finds and declares that the Mojave Water Agency is divided into seven divisions from which directors are elected. These divisions need to be periodically adjusted to reflect the changes in population within each division.

SEC. 2. Section 3.1 of the Mojave Water Agency Law (Chapter 2146 of the Statutes of 1959) is repealed.

SEC. 3. Section 3.2 is added to the Mojave Water Agency Law (Chapter 2146 of the Statutes of 1959), to read:

Sec. 3.2. (a) After each federal decennial census, and using population figures as validated by the Population Research Unit of the Department of Finance, the board of directors shall, by

resolution, adjust the boundaries of any divisions so that the divisions are, as far as practicable, equal in population and represent, as far as practicable, a commonality of interest.

(b) The resolution requires the vote of not less than four directors for adoption.

(c) At the time of, or after, any annexation of territory to the agency, the board of directors shall designate, by resolution, the division of which the annexed territory shall be a part.

(d) No change in division boundaries may be made within four months preceding the election of any director.

(e) (1) A change in division boundaries does not affect the term of office of any director.

(2) If division boundaries are adjusted, the director of the division whose boundaries have been adjusted, shall continue to be the director of the division bearing the number of his or her division as formerly comprised until the office becomes vacant by means of term expiration or otherwise, whether or not the director is a resident within the boundaries of the division as adjusted.

(f) The successor to the office in a division whose boundaries have been adjusted shall be a resident and voter of that division.

SEC. 4. Section 32.5 of the Mojave Water Agency Law (Chapter 2146 of the Statutes of 1959) is repealed.

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 1172

An act to amend Sections 76708, 78407, 78475, 78486, 78500, 78527, 78550, 78552, 78563, and 78564 of, and to add Section 78415 to, the Food and Agricultural Code, relating to marketing of seafood.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 76708 of the Food and Agricultural Code is amended to read:

76708. (a) The notice requesting nominations shall indicate that nominations shall be mailed to the director at his or her office in Sacramento and that the director will consider nominations received by mail postmarked not later than March 1.

(b) Nominations shall set forth all of the following:

(1) The name and address of each nominee.

(2) Whether each nominee is being nominated as a member or alternate member.

(3) The type of category for which the nominee is being nominated.

(4) The list of qualifications and supporters, if any, for the nominee.

(5) The name and address of the nominating marketing association, organization, or individual.

SEC. 2. Section 78407 of the Food and Agricultural Code is amended to read:

78407. "Fisheries" means:

(a) All species of fish and shellfish harvested in ocean waters landed in California which are treated as a unit for purposes of research, development, promotion, and marketing, except abalone, anchovy, dungeness crab, herring and herring roe, pink shrimp, salmon, sea urchins, all fish collected for scientific experiment or aquaria, all fish classified as groundfish taken by use of trawl nets, and all tuna landed for canning in this state or for transshipment for canning in other states or nations.

(b) Any economic activity involving the harvesting, receiving, processing, manufacturing, or distributing of fisheries described in subdivision (a) and products therefrom.

SEC. 3. Section 78415 is added to the Food and Agricultural Code, to read:

78415. "Sponsor" means a person or company that is not a member of the council but who supports and wishes to contribute to programs established by the director on behalf of the council for a specified voluntary contribution and benefit, as authorized by Section 78563.

SEC. 4. Section 78475 of the Food and Agricultural Code is amended to read:

78475. There is in the State of California the California Seafood Council. The council shall be composed of 11 voting members and their alternates, and six nonvoting members.

SEC. 5. Section 78486 of the Food and Agricultural Code is amended to read:

78486. One nonvoting member of the council shall be appointed by the director to represent each of the following entities:

(a) The department.

(b) The Department of Fish and Game.

(c) The California Sea Grant Program.

(d) The West Coast Fisheries Development Foundation or the Coastal Resources Center.

(e) The California State World Trade Commission.

(f) The State Department of Health Services.

SEC. 6. Section 78500 of the Food and Agricultural Code is amended to read:

78500. The duties of the council shall be advisory, except as to those duties that may be delegated to it by the director or as otherwise designated in this chapter. The council may, subject to the approval of the director, exercise any of the following powers that may be delegated to the council by the director:

(a) To recommend to the director regulations that relate to the administration and enforcement of this chapter.

(b) To investigate all matters that affect the administration of this chapter, and to report violations of this chapter to the director.

(c) To employ and, at its pleasure, discharge, a manager and any other employees it deems necessary, and to prescribe their duties and powers and fix their compensation.

(d) To contract for the services of any person.

(e) To establish offices and incur expenses incidental thereto.

(f) To make contracts and other agreements to research, develop, market, and promote the sale of seafood and seafood products from fisheries, as defined by subdivision (a) of Section 78407, and landed in California, on either a local, state, national, or international basis.

(g) (1) To cooperate with any other local, state, or national commission, organization, or agency, whether voluntary or created by state or federal law, including, but not limited to, the West Coast Fisheries Development Foundation, the California Salmon Council, and the National Fish and Seafood Promotion Council, which is engaged in work or activities similar to the work and activities of the council, and to recommend to the director the making of contracts and agreements with those organizations or agencies for carrying on joint programs of education, communication, research, publicity, and advertising.

(2) To recommend to the director the making of contracts and agreements with other councils, commodity commissions, or producer organizations for joint programs of publicity and advertising where those products are compatible with the promotion of seafood and seafood products from fisheries, as defined by subdivision (a) of Section 78407, and landed in California.

(3) In matters of research, to cooperate with organizations of recognized professional standing that are adequately equipped with facilities for the research that is contemplated.

(h) To recommend to the director the institution and promotion of scientific research to develop or discover, or both, the health, food, therapeutic, dietetic, and other uses of seafood.

(i) To recommend or contract for scientific research for the promotion, utilization, and benefit of seafood and seafood products for the purpose of successful seafood marketing.

(j) To recommend or contract for the development of voluntary product quality standards.

(k) To promote accurate labeling of California seafood as a means to educate consumers and the public about the benefits of California seafood.

(l) To receive, invest, and disburse funds pursuant to Article 7

(commencing with Section 78550).

(2) To allocate funds to agencies not specifically or solely engaged in carrying on research or promotion for seafood, if the council and the director are satisfied that those allocations will be beneficial to the California commercial fisheries and will tend to effectuate the declared purposes of this chapter.

(*l*) To establish and regulate the permissive use of an official brand, service mark, trade name, label, or other distinctive designation of grade, quality, condition, or other promotional or educational description. Permissive use of any such official designation shall be limited to producers, handlers, or other persons designated by the council who are in compliance with all regulations or rules established by the council for use of the designation. Any designation established pursuant to this section shall not be construed as a private brand or trade name.

SEC. 7. Section 78527 of the Food and Agricultural Code is amended to read:

78527. The council shall not expend council funds for advertising brand name seafood products as determined by the council, except for promotions carried out on behalf of the council in markets outside of the State of California. The council may expend council funds to conduct cost-sharing advertising with nonbrand name seafood products from the California commercial fisheries.

SEC. 8. Section 78550 of the Food and Agricultural Code is amended to read:

78550. In order to carry out the programs and administer the activities that are conducted pursuant to this chapter, except as specified in Section 78557, a fee shall be established by the director and, thereafter, shall be recommended to the director by the council, based on an amount which is four-tenths of 1 percent of the ex-vessel price per pound paid for each pound of fish or shellfish specified in subdivision (a) of Section 78407 sold to a receiver, or sold by a fisherman directly to the public pursuant to Section 8033.5 of the Fish and Game Code. The fee shall be paid by the receiver or the fisherman, or both, and remitted to the director as specified in Section 78552. The amount of the fee for each species shall be established annually by the council for recommendation to the director, calculated to the nearest $1/10000$ of one cent ($0.0001) based on the formulation in this section. Individual fees shall be established for species identified in subdivision (a) of Section 78407. The council, with assistance from the Department of Fish and Game, may determine the fee structure for individual species and may average or consolidate fees for similar species to simplify landing fee reporting and accounting requirements. The amount of the fee shall be based on the landed weight of the fish or shellfish, as reported on the fish landing receipt made under Section 8043 of the Fish and Game Code. A fisherman selling to the public pursuant to Section 8033.5 of the Fish and Game Code shall remit the fee directly to the director as specified in Section 78552.

To facilitate collection of fees from receivers or fishermen who handle a small volume of fish and shellfish specified in subdivision (a) of Section 78407, receivers or fishermen whose estimated monthly fee payments do not exceed ten dollars ($10) may file reports and submit fees on a quarterly basis. Payments are delinquent if not submitted within 60 days following the end of the quarter in which they are due.

SEC. 9. Section 78552 of the Food and Agricultural Code is amended to read:

78552. The fees, whether from fishermen or receivers, or both, that are collected pursuant to this article shall be forwarded by the receivers, except as provided under Section 78550, to the director at the same time landing taxes are paid to the Department of Fish and Game pursuant to Section 8053 of the Fish and Game Code. The director shall supply forms necessary for the remittance of fees. The director may consult with the Director of Fish and Game and enter into agreements with the Department of Fish and Game, when he or she deems it necessary and reasonable, to assist in the administration of this article and to ensure compliance with this article. The director and the Director of Fish and Game may enter into an interagency agreement on behalf of the council to provide names and addresses of commercial fish businesses selected annually by the Department of Fish and Game for fish landing tax examinations. The listing of names and addresses is a confidential document.

SEC. 10. Section 78563 of the Food and Agricultural Code is amended to read:

78563. The director may accept contributions from any source or may receive grants or contracts for funds from the Secretary of Environmental Affairs pursuant to subdivision (b) of Section 35062 of the Public Resources Code to advance the purposes of this chapter. If requested by the donor, the contributions shall be segregated and separately maintained for the use of the council. The director may also establish categories of voluntary contributions paid by sponsors, as defined by Section 78415. Categories of voluntary contributions, suggested voluntary contributions, and benefits may be recommended to the director by the council.

SEC. 11. Section 78564 of the Food and Agricultural Code is amended to read:

78564. The council may develop guidelines for the establishment and operation of a "credit-back" program for receivers and fishermen, which authorizes the reimbursement of a percentage of individual contributions to the council, not to exceed 50 percent, for specified individual expenditures benefiting the fishing industry. Individual expenditures eligible for reimbursement may include, but are not necessarily limited to, promotion, research and development, and advertising. The council shall appoint a review committee from its membership and from the fishing industry to review and approve applications for the credit. Any guidelines that require the assistance

of, or impact the operation of, the Department of Fish and Game are subject to Section 78552.

Upon submittal of a statement of completion of a credit-back program, and its acceptance by the review committee, the review committee may direct the council to reimburse a percentage of individual contributions, not to exceed 50 percent, at the end of the fiscal year for which the credit-back application and expenditure were made.

CHAPTER 1173

An act to add Section 5009.2 to the Public Resources Code, relating to the state park system.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. It is the intent of the Legislature that any state funds which are allocated for the maintenance or operation of any unit of the state park system shall continue to be used for the enhancement of the state park system and shall not be redirected to any other purpose as a result of any financial savings resulting from this act.

SEC. 2. Section 5009.2 is added to the Public Resources Code, to read:

5009.2. (a) The department may enter into an agreement to accept funds from any person, business entity, or organization for the maintenance or operation of a state beach, any other unit of the state park system that encompasses a beach, or any area or facility of the state beach or other unit. Any funds so received shall be deposited in a separate account in the State Park Contingent Fund. The funds received shall supplement existing resources for the purposes of enhancing the maintenance or operation of the state beach, other unit of the state park system that encompasses a beach, or area or facility of the state beach or other unit. The department and the sponsoring person, business entity, or organization may specify in the agreement the level of maintenance or operation that will be performed.

(b) The department may also enter into an agreement to accept services from any person, business entity, or organization for the operation, maintenance, or enhancement of a state beach, other unit of the state park system that encompasses a beach, or area or facility of the state beach or other unit, on a nonprofit basis. Under the direction of the department, those services shall supplement existing staff resources for the purposes of operation, maintenance, or enhancement of the state beach, area, or facility.

(c) The director may authorize the erection of an appropriate

sign in recognition of that sponsorship, in accordance with department rules and regulations regarding signs in the state park system.

(d) The activities authorized by this section shall be implemented as part of the department's Adopt-A-Beach program.

CHAPTER 1174

An act to amend, repeal, and add Section 9051 of, to add and repeal Section 5517 of, and to add and repeal Article 20 (commencing with Section 8599) of Chapter 2 of Division 6 of, the Fish and Game Code, relating to white sharks, and making an appropriation therefor.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

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

(a) The white shark occurs throughout California waters, especially off the Farallon Islands, Ano Nuevo, and the Channel Islands.

(b) The white shark, as the principal apex predator off the California coast, plays a vital role in maintaining the overall health and stability of California's marine environment and is also a species of great interest to the public.

(c) A healthy white shark population off the California coast is critical to maintaining a balance in our marine ecosystems.

(d) The white shark has been, and continues to be, uncommon, and its population off the California coast is sensitive to any increased level of sport or commercial taking, as has been demonstrated in the recent past.

(e) An insignificant level of incidental take of white sharks presently occurs in several net fisheries.

(f) It is desirable for the Department of Fish and Game and the fishing and scientific communities to cooperate in collecting more information on this fascinating, important, and uncommon fish.

SEC. 2. Section 5517 is added to the Fish and Game Code, to read:

5517. (a) It is unlawful to take any white shark (Carcharodon carcharias), except under permits issued pursuant to Section 1002 for scientific or educational purposes.

(b) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1999, deletes or extends that date.

SEC. 3. Article 20 (commencing with Section 8599) is added to Chapter 2 of Division 6 of the Fish and Game Code, to read:

Article 20. White Sharks

8599. (a) It is unlawful to take any white shark (Carcharodon carcharias) for commercial purposes, except under permits issued pursuant to Section 1002 for scientific or educational purposes or pursuant to subdivision (b) for scientific or live display purposes.

(b) Notwithstanding subdivision (a), white sharks may be taken incidentally by commercial fishing operations using set gill nets, drift gill nets, or roundhaul nets. White shark taken pursuant to this subdivision shall not have the pelvic fin severed from the carcass until after the white shark is brought ashore. White shark taken pursuant to this subdivision, if landed alive, may be sold for scientific or live display purposes.

(c) Any white shark killed or injured by any person in self-defense may not be landed.

8599.3. The department shall cooperate, to the extent that it determines feasible, with appropriate scientific institutions to facilitate data collection on white sharks taken incidentally by commercial fishing operations.

8599.6. This article shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1999, deletes or extends that date.

SEC. 4. Section 9051 of the Fish and Game Code is amended to read:

9051. (a) Spears, harpoons, and bows and arrows may be used for taking all varieties of skates, rays, and sharks, except soupfin sharks and white sharks.

(b) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1999, deletes or extends that date.

SEC. 5. Section 9051 is added to the Fish and Game Code, to read:

9051. (a) Spears, harpoons, and bows and arrows may be used for taking all varieties of skates, rays, and sharks, except soupfin sharks.

(b) This section shall become operative January 1, 1999.

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 1175

An act to amend Section 14825.1 of the Government Code, to add Section 12113.5 to, and to add Chapter 1.6 (commencing with Section 1600) to Part 1 of Division 2 of, the Public Contract Code, relating to state procurement.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. The Legislature finds and declares the following:

(a) As fiscal resources continue to erode the state's capacity to fulfill the traditional responsibilities of government, new strategies are needed to reduce costs, increase efficiency, and strengthen the overall economy.

(b) A 1992 study by the Kennedy School of Government at Harvard University entitled Information Technology and Government Procurement noted, "Information technology has more potential to change the way our government operates than any other single technology or body of knowledge."

(c) Several models exist, including a technologically advanced model being developed and implemented for the Department of Defense at the Lawrence Livermore National Laboratory. The application of these programs has demonstrated significant cost savings through the use of information technology by increasing competitiveness and reducing cost in the process of public procurement of goods and services.

(d) In 1992, the State of Oregon implemented a Vendor Information Program, the first statewide fully automated bid access system in the country. To date, that state has realized significant cost savings as a result of that system.

(e) It is the intent of this act to expand and improve the state's procurement markets by making it easier, through innovative applications of information technology, for buyers and sellers to find and communicate interactively with each other, as well as realize overall cost savings and operational efficiency.

(f) It is the further intent of this chapter to enact necessary statutory revisions to procurement policies to allow electronic procurement transactions to occur.

SEC. 2. Section 14825.1 of the Government Code is amended to read:

14825.1. The California State Contracts Register shall be published not less than twice a month and shall include information deemed appropriate by the Department of General Services, and shall include all of the following:

(a) Contract identification number.

(b) A description of the contract to be performed.

(c) All deadlines for submitting bid proposals or other required steps in the contract process, including the location and estimated duration of the contract where appropriate.

(d) Any eligibility requirements and preferences.

(e) Department, name, and telephone number of the person or persons to contact for further bid and submittal information.

The department may make the register available to the general public electronically through a computer-accessed service.

SEC. 3. Chapter 1.6 (commencing with Section 1600) is added to Part 1 of Division 2 of the Public Contract Code, to read:

CHAPTER 1.6. ELECTRONIC TRANSMISSIONS

1600. Notwithstanding any other provision of law, state agencies may enter into and make payment on contracts by way of electronic transmission, including but not limited to, the issuance of solicitation documents, and the receipt of responses thereto.

SEC. 4. Section 12113.5 is added to the Public Contract Code, to read:

12113.5. (a) The Director of General Services shall conduct a feasibility study assessing fiscal, technical, and operational factors to be considered in reforming the state's procurement process from a labor and paper intensive procurement process to an end-to-end all electronic system of on-line procurement whereby data bases of open procurements are made accessible to vendors by computer and modem. A component of the feasibility study shall establish, not later than January 1, 1994, a pilot program to define the requirements of an end-to-end all electronic procurement system. The feasibility study shall encompass all aspects of procurement, including construction, electronic data processing and telecommunications, commodities, supplies, materials, and physical or consulting services.

(b) The feasibility study shall be designed to explore the potential for realizing, through applications of appropriate end-to-end all electronic procurement systems and information technology applications, procurement enhancements that may include, but not be limited to, the following:

(1) Providing capacity to electronically categorize procurements by approximate dollar value, geography, and due date.

(2) Offering ability for immediate access of status of procurements, through posting of completed procurements.

(3) Realizing cost savings through a resulting shift from a labor and paper intensive system to an electronic system.

(4) Achieving long-term savings in procurements by expanding the network of qualified suppliers through electronic marketing of public contract opportunities.

(5) Developing strategies to ensure equitable access to contract opportunities and procurement information to small and emerging business enterprises.

(c) The feasibility study shall include recommendations, based on

study findings, to validate the requirements and value of an end-to-end all electronic procurement system, and provide for the development of specified data. Study recommendations shall also include a timeline from a pilot phase to full implementation of an electronic system for all aspects of procurement, including construction, electronic data processing and telecommunications, commodities, supplies, materials, and physical or consulting services.

(d) The feasibility study shall include consideration of the Controller's prepayment claim audit requirements and identify means to incorporate these requirements into any payment system resulting from this study.

(e) Notwithstanding Section 7550.5 of the Government Code, the results of the feasibility study shall be submitted, not later than August 1, 1994, to the Office of Information Technology as a feasibility study report, and shall also be reported to the Governor and the Legislature.

CHAPTER 1176

An act to amend Sections 12841, 12841.1, 12847, and 12999.4 of, to add Section 12971.5 to, and to add Article 1.5 (commencing with Section 12115) to Chapter 7 of Division 6, and Article 4.6 (commencing with Section 12848) to Chapter 2 of Division 7 of, the Food and Agricultural Code, relating to economic poisons.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Article 1.5 (commencing with Section 12115) is added to Chapter 7 of Division 6 of the Food and Agricultural Code, to read:

Article 1.5. Assessments

12115. (a) Each licensed pesticide dealer shall pay to the director an assessment of 9 mills ($0.009) per dollar of the dealer's acquisition price or the registrant's sales price, whichever is higher, for all sales by the dealer into or within this state of economic poisons registered by the director and labeled for agricultural use where the dealer is the person who first sold the economic poison into or within this state.

(b) Until June 30, 1997, each pesticide dealer shall pay an additional assessment of 12 mills ($0.012) per dollar of sales for all sales by the dealer of its registered and labeled economic poisons for use in this state.

12115.1. In addition to any assessment required to be paid

pursuant to Section 12115, each dealer shall pay to the director an assessment of one mill ($0.001) per dollar of the dealer's acquisition price or the registrant's sales price, whichever is higher, for all sales by the dealer into or within this state of economic poisons registered by the director and labeled for agricultural use where the dealer is the person who first sold the economic poison into or within this state. Revenue received under this section shall be distributed as provided in subdivisions (b) and (c) of Section 12841.1.

12115.2. The payments required by Sections 12115 and 12115.1 shall include assessments from branch locations of licensed pesticide dealers, identified by the particular branch location and principal place of business, and shall be made quarterly one calendar month after March 31, June 30, September 30, and December 31 of each year. For any delinquency in making a payment or any deficiency in payment, the director may add a penalty of 10 percent of the amount that is due to defray the cost of collection of the delinquent or deficient payment.

12115.3. (a) Each licensed pesticide dealer shall maintain at its principal place of business the records of its purchases, sales, and distributions of economic poisons into or within this state, including those of its branch locations, for four years. Each dealer shall also maintain the pesticide broker license number of any pesticide broker from whom the dealer purchased economic poisons registered by the director and labeled for agricultural use. The records shall be available for audit by the director.

(b) Each licensed pesticide dealer shall report quarterly to the director the dealer's acquisition price, the registrant's sale price, the total dollars of sales, and total pounds or gallons sold into or within this state of each economic poison registered by the director and labeled for agricultural use, for all sales subject to Sections 12115 and 12115.1. The quarterly report shall be in the form prescribed by the director and shall include information from the dealer's licensed branch locations, if any, and any other information specified on the form or required by the director. The report shall include a certification, under penalty of perjury, that the information contained in the report is true and correct. The report shall accompany payment of assessments required by Sections 12115 and 12115.1.

12115.4. Notwithstanding Section 11513 or any other provision of law, all moneys derived from this article shall be paid to the Pesticide Regulation Fund and expended only for purposes specified in Sections 12784 and 12841.1.

12115.5. Any licensed pesticide dealer who purchases economic poison products that are registered by the director pursuant to Chapter 2 (commencing with Section 12751) of Division 7 and labeled for agricultural use from a person other than a registrant or a licensed pesticide dealer, shall report in writing the name, address, telephone number, and pesticide broker license number issued by the director, if any, of those persons to the director annually, by

December 1 each year.

12115.6. It is unlawful for a licensed pesticide dealer to purchase for sale in this state a pesticide that is labeled for agricultural use except from a registrant, a pesticide dealer licensed pursuant to Section 12107, or a pesticide broker licensed pursuant to Section 12848.2.

SEC. 2. Section 12841 of the Food and Agricultural Code is amended to read:

12841. (a) (1) Except as provided in subdivision (d), each registrant shall pay to the director an assessment not to exceed nine mills ($0.009) per dollar of sales for all sales by the registrant of its registered and labeled economic poisons for use in this state. There is a rebuttable presumption that economic poison products that are sold or distributed into or within this state by any person are sold or distributed for use in this state.

(2) From July 1, 1992, to June 30, 1997, inclusive, each registrant shall pay an additional assessment of twelve mills ($0.012) per dollar of sales for all sales by the registrant of its registered and labeled economic poisons for use in this state.

(3) A registrant is not required to pay an assessment on his or her products registered and labeled only for use in further manufacturing or formulating of economic poisons. The director may reduce the assessment if he or she determines that a lesser assessment rate, together with other available funds, will provide adequate revenue to administer and enforce Division 6 (commencing with Section 11401), this chapter, Chapter 3 (commencing with Section 14001), and Chapter 3.5 (commencing with Section 14101).

(b) Upon application of any registrant, the director shall determine whether a fertilizer or paper product is used as a carrier for economic poison, and is sold in combination, and whether the mill assessment under this section shall be on the economic poison value only, when the product is designed, developed, manufactured, and sold primarily for other than an economic poison use. If the director finds that the combination product has such a major component and is designed, developed, manufactured, and sold primarily for other than an economic poison use, the assessment provided by this section shall be paid on the equivalent percentage of the sales price of the active ingredients of the economic poison product. The director shall establish this percentage of the sales price. The percentage shall be the ratio of that portion of the sales price attributable to the economic poison portion to the total sales price of the combination product.

(c) For purposes of this section, "active ingredient" means any active ingredient which is required to be stated on the label on any registered economic poison under Section 12883.

(d) Assessments provided for in this article for sales of registered poisons that are labeled for agricultural use and sold for use in this state shall be paid by the registrant except in those cases where the

registrant did not first sell the economic poison into or within this state or have actual knowledge, at the time of its sale, that the economic poison would be sold for use in this state. In those cases, the assessment shall be paid by the licensed pesticide broker or licensed pesticide dealer who first sold the economic poison into or within this state, as set forth in Article 1.5 (commencing with Section 12115) of Chapter 7 of Division 6 and Article 4.6 (commencing with Section 12848).

(e) It has been and continues to be the intent of the Legislature that this division requires the department to register all economic poisons prior to their sale for use in this state and, except as otherwise provided by law, requires the department to regulate and control the use of economic poison in accordance with this division. The department shall continue to collect the assessment as provided in this section at the same rate on all registered agricultural and registered nonagricultural economic poisons.

SEC. 3. Section 12841.1 of the Food and Agricultural Code is amended to read:

12841.1. (a) In addition to the assessment paid pursuant to Section 12841, from July 1, 1992, to June 30, 1997, inclusive, each registrant shall pay to the director an assessment of one mill ($0.001) per dollar of sales for all sales by the registrant of its registered and labeled economic poisons for use in this state. A registrant not required to pay an assessment pursuant to 12841 is not required to pay the assessment imposed by this section.

(b) Sixty-seven and one-half percent of the revenue received pursuant to this section shall be deposited monthly in a separate account in the Department of Food and Agriculture Fund. These revenues shall be expended only by the Department of Food and Agriculture, upon appropriation, to provide consultation to the department pursuant to Section 11454.2. No funds may be expended prior to the execution of a memorandum of understanding pursuant to subdivision (b) of Section 11454.2. The consultation activities to be undertaken by the Department of Food and Agriculture are limited solely to those specifically authorized in the memorandum of understanding executed pursuant to Section 11454.2. In no case shall these funds be expended for scientific risk assessment activities.

(c) Thirty-two and one-half percent of the revenue received pursuant to this section, upon appropriation, shall be paid to the counties in a manner prescribed by the director as partial reimbursement for costs incurred by the counties in the administration of Section 12979.

SEC. 4. Section 12847 of the Food and Agricultural Code is amended to read:

12847. Sales invoices for economic poisons labeled for agricultural use and first sold into or within this state by the registrant, a pesticide broker, or a pesticide dealer shall show that the assessment specified in Sections 12115, 12115.1, 12841, 12841.1, 12848.6, and 12848.7 will be paid by the registrant, broker, or dealer, respectively. All other sales

invoices for economic poisons labeled for agricultural use and sold into or within this state by the registrant, a pesticide broker, or a pesticide dealer shall show that the assessment will be paid, and may show an amount or rate that represents the assessment. However, only the person who actually will pay the assessment may show the amount or rate of the assessment as a line item on the sales invoice.

SEC. 5. Article 4.6 (commencing with Section 12848) is added to Chapter 2 of Division 7 of the Food and Agricultural Code, to read:

Article 4.6. Pesticide Brokers

12848. It is unlawful for any person, other than the registrant or pesticide dealer licensed pursuant to Section 12107 to sell or distribute into or within this state any economic poison products that have been registered by the director and that are labeled for agricultural use, unless the person is licensed by the director as a pesticide broker. This article does not apply to persons who operate as sellers or distributors of economic poisons that are labeled only for nonagricultural uses.

12848.1. (a) Application for a pesticide broker license, or renewal of a license, shall be in the form prescribed by the director. Each application for a license, or license renewal, shall state the name and address of the applicant, and any other information specified on the application or required by the director, and be accompanied by a fee of one hundred dollars ($100).

(b) An additional license fee, or license renewal fee, of fifty dollars ($50) shall be paid for each branch location of the applicant that sells or distributes into or within the state any economic poison products that are labeled for agricultural use.

12848.2. The director shall issue to each applicant that satisfies the requirements of this article a pesticide broker license that shall be valid for one year from the date of issuance, unless the license is sooner revoked or suspended.

12848.3. All licenses issued pursuant to this article may be renewed annually upon application to the director.

12848.4. A penalty of twenty-five dollars ($25) shall be added to any license renewal fee that is not paid by the date of expiration of a previously issued license or license renewal.

12848.5. Each licensed pesticide broker that changes the address of its place of business, or that of a branch location, shall immediately give the director written notification of the change.

12848.6. (a) Each licensed pesticide broker shall pay to the director an assessment of 9 mills ($0.009) per dollar of sales for all sales by the broker into or within this state of economic poisons registered by the director and labeled for agricultural use where the broker is the person who first sold the economic poison into or within this state.

(b) Until June 30, 1997, each pesticide broker shall pay an additional assessment of 12 mills ($0.012) per dollar of sales for all

sales by the broker of its registered and labeled economic poisons for use in this state.

12848.7. In addition to any assessment required to be paid pursuant to Section 12848.6, each broker shall pay to the director an assessment of one mill ($0.001) per dollar of sales for all sales by the broker into or within this state of economic poisons registered by the director and labeled for agricultural use where the broker is the person who first sold the economic poison into or within this state. Revenue received under this section shall be distributed as provided in subdivisions (b) and (c) of Section 12841.1.

12848.8. The payments required by Sections 12848.6 and 12848.7 shall include assessments from branch locations of licensed pesticide brokers, identified by the particular branch location and principal place of business and shall be made quarterly one calendar month after March 31, June 30, September 30, and December 31 of each year. For any delinquency in making a payment or any deficiency in payment, the director may add a penalty of 10 percent of the amount that is due to defray the cost of collection of the delinquent or deficient payment.

12848.9. (a) Each licensed pesticide broker shall maintain at its principal place of business the records of its purchases and sales and distributions of economic poisons into or within this state, including those of its branch locations, for four years. The records shall be available for audit by the director.

(b) Each licensed pesticide broker shall report quarterly to the director the total dollars of sales and total pounds or gallons sold into or within this state of each economic poison registered by the director and labeled for agricultural use, for all sales subject to Sections 12848.6 and 12848.7. The quarterly report shall be in the form prescribed by the director and shall include information from the broker's licensed branch locations, if any, and any other information specified on the form or required by the director. The report shall include a certification, under penalty of perjury, that the information contained in the report is true and correct. The report shall accompany payment of assessments required by Sections 12848.6 and 12848.7.

12848.10. It is unlawful for any person required to be licensed as a pesticide broker pursuant to this article to make any false or fraudulent statements or misrepresent or fail to disclose any material fact in making application for a license or renewal of a license or in any reports submitted to the director, or to make any false or misleading statements concerning any products specified in Section 12847 that the person sells or distributes.

12848.11. The director, after a hearing, may refuse, revoke, or suspend a pesticide broker license for any violation of this division or any regulations adopted pursuant to this division.

SEC. 6. Section 12971.5 is added to the Food and Agricultural Code, to read:

12971.5. No person, by himself, herself, or through another, shall

purchase for use in this state a pesticide that is labeled for agricultural use except from a person licensed as a pesticide dealer pursuant to Section 12107. Persons using those products shall retain receipts of the purchase of the products for four years and make the receipts available for inspection upon request of the director or the commissioner.

SEC. 7. Section 12999.4 of the Food and Agricultural Code is amended to read:

12999.4. (a) In lieu of civil prosecution by the director, the director may levy a civil penalty against a person violating Sections 12115, 12115.1, 12115.5, 12115.6, 12671, 12847, 12993, Article 4.5 (commencing with Section 12841), or Article 4.6 (commencing with Section 12848) of Chapter 2 of not more than five thousand dollars ($5,000) for each violation.

(b) Before a civil penalty is levied, the person charged with the violation shall receive notice of the nature of the violation and shall be given an opportunity to be heard, including the right to review the director's evidence and a right to present evidence on his or her own behalf.

(c) Review of the decision of the director may be sought by the person against whom the penalty was levied within 30 days of the date of the decision pursuant to Section 1094.5 of the Code of Civil Procedure.

(d) After the exhaustion of the review procedure provided in this section, the director or his or her representative, may file a certified copy of a final decision of the director that directs the payment of a civil penalty and, if applicable, any order that denies a petition for a writ of administrative mandamus, with the clerk of the superior court of any county. Judgment shall be entered immediately by the clerk in conformity with the decision or order. No fees shall be charged by the clerk of the superior court for the performance of any official service required in connection with the entry of judgment pursuant to this section.

(e) Any money recovered under this section shall be paid into the Department of Food and Agriculture Fund for use by the department, upon appropriation, in administering this division and Division 6 (commencing with Section 11401).

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 1177

An act to amend Section 7147 of, to amend, repeal, and add Sections 7921, 7921.1, and 7921.5 of, the Fish and Game Code, relating to commercial fishing, and making appropriation therefor.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 7147 of the Fish and Game Code is amended to read:

7147. (a) The owner or operator of a boat or vessel licensed pursuant to Section 7920 shall not permit any person to fish from that boat or vessel unless that person has, in his or her possession, a valid sportfishing license, sport ocean fishing license, or sport ocean fin fishing license and any required license stamp.

(b) On or before March 1, 1995, the department shall submit to the Legislature a report evaluating the effect of this section and its recommendations on whether the operation of this section should be continued. The report shall include a summary of comments compiled by organizations representing commercial passenger fishing vessel owners if those comments are submitted to the department on or before January 1, 1995.

SEC. 2. Section 7921 of the Fish and Game Code, as added by Section 14 of Chapter 1703 of the Statutes of 1990, is repealed.

SEC. 3. Section 7921 of the Fish and Game Code, as amended by Section 9 of Chapter 701 of the Statutes of 1992, is amended to read:

7921. The license shall be valid during the period from April 1 to March 31 of the year following, or, if issued after the beginning of that term, for the remainder thereof, and, for a fee of four hundred dollars ($400), shall be issued to the holder of a certificate of boat registration issued pursuant to Section 7890.

This section shall become operative April 1, 1993, and shall remain in effect only until March 31, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before March 31, 1995, deletes or extends that date.

SEC. 4. Section 7921 is added to the Fish and Game Code, to read:

7921. (a) The license shall be valid during the period from April 1 to March 31 of the year following, or, if issued after the beginning of that term, for the remainder thereof, and for a fee of two hundred dollars ($200) shall be issued to the holder of a certificate of boat registration issued pursuant to Section 7890.

(b) This section shall become operative on April 1, 1995.

SEC. 5. Section 7921.1 of the Fish and Game Code is amended to read:

7921.1. (a) Notwithstanding Section 7921, the fee for a license for a vessel with a home port in the Klamath Management Zone, as

defined by regulations adopted pursuant to the Magnuson Fishery Conservation and Management Act (16 U.S.C. Sec. 1801 et seq.), shall be three hundred dollars ($300).

(b) This section shall remain in effect only until March 31, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted on or before March 31, 1995, deletes or extends that date.

SEC. 6. Section 7921.1 is added to the Fish and Game Code, to read:

7921.1. (a) Notwithstanding Sections 7921 and 7921.5, the fee for a license for a vessel with a home port in the Klamath Management Zone, as defined by regulations adopted pursuant to the Magnuson Fishery Conservation and Management Act (16 U.S.C. Sec. 1801 et seq.), shall be one hundred dollars ($100).

(b) This section shall become operative April 1, 1995, and shall remain in effect only until March 31, 1996, and as of that date is repealed, unless a later enacted statute, which is enacted on or before March 31, 1996, deletes or extends that date.

SEC. 7. Section 7921.5 of the Fish and Game Code is amended to read:

7921.5. (a) Persons obtaining a license required by Section 7920 shall receive a credit or reduction in the fee equal to the fees paid by that person pursuant to Section 6596, subdivision (b) of Section 8235, and Section 8610.8 and an amount equal to the cost of one stamp that the person has obtained pursuant to Section 7860.

(b) This section shall remain in effect only until March 31, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted on or before March 31, 1995, deletes or extends that date.

SEC. 8. Section 7921.5 is added to the Fish and Game Code, to read:

7921.5. (a) Notwithstanding Section 7921 and except as provided in Section 7921.1, the fee for a license for a vessel, the owner or operator of which has acquired a stamp pursuant to Section 7860, shall be one hundred fifty dollars ($150).

(b) This section shall become operative on April 1, 1995.

CHAPTER 1178

An act to amend Section 15814.11 of, and to add Sections 15814.24 and 15814.25 to, the Government Code, and to add Section 749 to the Public Utilities Code, relating to energy.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. The Legislature finds and declares as follows:

(a) Up to five hundred million dollars ($500,000,000) in revenue

bonds is permitted to finance the cost of energy-efficient equipment at certain specified public buildings, including California state universities and colleges, and community colleges.

(b) To date, two issues of Energy Efficiency Revenue Bonds totaling one hundred seventeen million eight hundred ten thousand dollars ($117,810,000) have been authorized by the Public Works Board.

(c) The balance of three hundred eighty-two million one hundred ninety thousand dollars ($382,190,000) may be authorized until January 1, 2000.

(d) Publicly funded schools that include kindergarten through grade 12 are experiencing serious budget constraints.

(e) These schools are large energy users and significant opportunities exist to reduce energy consumption by cost-effective measures, including the replacement of inefficient heating, lighting, and cooling equipment with energy-efficient equipment. Significant opportunities also exist to reduce water consumption by cost-effective measures.

(f) It is in the interest of the people of the State of California to implement all cost-effective energy efficient measures in publicly funded schools that include kindergarten through grade 12.

(g) It is therefore the intent of the Legislature to include publicly funded schools that include kindergarten through grade 12, or any portion of those grades, in the Energy Efficiency Revenue Bond program to enable them to finance appropriate conservation measures, as defined in subdivisions (e) and (g) of Section 15814.11 of the Government Code.

(h) Utilities have in place conservation and efficiency programs that schools may utilize in conjunction with proceeds of Energy Efficiency Revenue Bonds.

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. "Public Building" also means any publicly funded school that includes kindergarten through grade 12, or any portion of those grades, provided that publicly funded schools that include kindergarten through grade 12 shall be authorized to finance only conservation measures and water conservation equipment as defined in subdivisions (e) and (g).

(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, and any school district as defined in Section 80 of the Education Code.

(g) "Water conservation equipment" means any device or modification that reduces water use from established water sources.

SEC. 3. Section 15814.24 is added to the Government Code, to read:

15814.24. (a) The Superintendent of Public Instruction shall apportion state aid equal to the amount necessary for each school 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 kindergarten through grade 12 schools.

(b) If a school 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 Superintendent of Public Instruction and the 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 superintendent 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. Any payment made from an apportionment by the Controller pursuant to this section shall be deemed to be an allocation to a school district for purposes of subdivision (b) of Section 8 of Article XVI of the California Constitution for purposes of Chapter 2 (commencing with Section 41200) of Part 24 of the Education Code.

SEC. 4. Section 15814.25 is added to the Government Code, to read:

15814.25. (a) Energy conservation measures eligible for financing by kindergarten through grade 12 schools shall be limited to those measures recommended pursuant to an energy audit provided by the State Energy Resources Conservation and Development Commission under its existing authority.

(b) The State Energy Resources Conservation and Development Commission shall, in consultation with the Department of General Services, publish and transmit to the Legislature no later than December 31, 1994, a report describing the activities related to financing energy conservation measures at kindergarten through grade 12 schools.

SEC. 5. Section 749 is added to Public Utilities Code, to read:

749. Public utilities shall develop programs in cooperation with local school districts in reducing their electricity and gas bills through conservation and improvements in efficiency. Utilities may offer to school districts on a priority basis, and school districts may utilize, any programs or incentives for commercial customers developed by the utility and approved by the commission, including rebates, loan programs and incentives for the installation of efficient lighting, heating, or cooling systems.

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 1179

An act to amend Sections 3202, 3205.1, 3234, and 3752 of, and to repeal Section 3242 of, the Public Resources Code, relating to oil, gas, and geothermal resources.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 3202 of the Public Resources Code is amended to read:

3202. Every person who acquires the ownership or operation of any well, whether by purchase, transfer, assignment, conveyance,

exchange, or otherwise, shall, within 30 days after acquiring the well and the land, owned or leased, upon which it is located, notify the supervisor or the district deputy, in writing, of the person's ownership or operation. The acquisition of a well is not final for the purposes of this division until the new operator provides all of the following:

(a) The name and address of the person from whom the well was acquired.

(b) The name and location of the well.

(c) The date of acquisition.

(d) The date when possession was acquired.

(e) A description of the land upon which the well is situated.

(f) A bond or deposit for any well that has not produced oil or gas or has not been used for injection during the five years prior to the date of acquisition. The bond or deposit shall be in an amount as provided in Section 3204 or Section 3205. The conditions of the bond or deposit shall be the same as the conditions stated in Section 3204. An operator that has provided the bond required by this subdivision shall not be required additionally to provide the bond or pay the fee required by Section 3206. However, the bond or fee required by Section 3206 shall not be substituted for the bond required by this subdivision.

SEC. 2. Section 3205.1 of the Public Resources Code is amended to read:

3205.1. (a) Notwithstanding Sections 3204 and 3205, any person who engages in the drilling, redrilling, deepening, or in any operation permanently altering the casing, of one or more wells located on submerged lands under ocean waters within the jurisdiction of this state, shall file with the supervisor a blanket indemnity bond for two hundred fifty thousand dollars ($250,000) to cover all his or her operations in drilling, redrilling, deepening, or permanently altering the casing in any of his or her wells located on those submerged lands. The bond shall be executed by the person, as principal, and by an authorized surety company, as surety, and the conditions of the bond shall be the same as the conditions stated in Section 3204, except for the difference in the amount.

(b) In addition to providing the bond required by subdivision (a), any person who operates one or more wells that are located on tide or submerged lands within the jurisdiction of this state shall provide an additional amount of security acceptable to the supervisor, covering the full costs of plugging and abandoning all of the operator's wells. The supervisor shall determine the amount of the security required of each operator, based on his or her determination of the reasonable costs of that plugging and abandonment. The supervisor may not adjust the amount of security required of each operator more frequently than once every three years, to reflect changes in those costs. An operator may self-insure this security obligation if the supervisor, at his or her discretion, determines that the operator has sufficient financial resources to plug and abandon

the wells for which the operator is responsible. The security shall remain in effect until all wells are plugged and abandoned in accordance with Section 3208, but the supervisor shall reduce the amount of the security required of an operator to reflect reduced obligations as wells are plugged and abandoned.

(c) If the state lease or other agreement that sets forth obligations or performance requirements under the lease provides security that is equal to, or greater than, the total of the additional security required pursuant to subdivision (b), plus all other liabilities under the lease or other agreement, the supervisor shall not require the additional security.

SEC. 3. Section 3234 of the Public Resources Code is amended to read:

3234. (a) (1) Except as otherwise provided in this section, all the well records, including production reports, of any owner or operator which are filed pursuant to this chapter are public records for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(2) Those records are public records when filed with the division unless the owner or operator requests, in writing, that the division maintain the well records of onshore exploratory wells or offshore exploratory wells as confidential information. The records of other wells may be maintained as confidential information if, based upon information in a written request of the owner or operator, the supervisor determines there are extenuating circumstances. For onshore wells, the confidential period shall not exceed two years from the cessation of drilling operations as defined in subdivision (e). For offshore wells, the confidential period shall not exceed five years from the cessation of drilling operations as specified in subdivision (e).

(3) Well records maintained as confidential information by the division shall be open to inspection by those persons who are authorized by the owner or operator in writing. Confidential status shall not apply to state officers charged with regulating well operations, the director, or as provided in subdivision (c).

(4) On receipt by the supervisor of a written request documenting extenuating circumstances relating to a particular well, including a well on an expired or terminated lease, the supervisor may extend the period of confidentiality for six months. For onshore wells, the total period of confidentiality, including all extensions, shall not exceed four years from the cessation of drilling operations as specified in subdivision (e), and for offshore wells the total period of confidentiality, including all extensions, shall not exceed seven years from the cessation of drilling operations as specified in subdivision (e), unless the director approves a longer period after a 30-day public notice and comment period. The director shall initiate and conduct a public hearing on receipt of a written complaint.

(b) Notwithstanding the provisions of subdivision (a) regarding

the period of confidentiality, the well records for onshore and offshore wells shall become public records when the supervisor is notified that the lease has expired or terminated.

(c) Production reports filed pursuant to Section 3227 shall be open to inspection by the State Board of Equalization or its duly appointed representatives when making a survey pursuant to Section 1815 of the Revenue and Taxation Code or when valuing state-assessed property pursuant to Section 755 of the Revenue and Taxation Code, and by the assessor of the county in which a well referred to in Section 3227 is located.

(d) For the purposes of this section, "well records" does not include either experimental logs and tests or interpretive data not generally available to all operators, as defined by the supervisor by regulation.

(e) The cessation of drilling operations occurs on the date of removal of drilling machinery from the well site.

SEC. 4. Section 3242 of the Public Resources Code is repealed.

SEC. 5. Section 3752 of the Public Resources Code is amended to read:

3752. (a) (1) Except as otherwise provided in this section, all the well records, including production records, of any owner or operator which are filed pursuant to this chapter are public records for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(2) Those records are public records when filed with the division, unless the owner or operator requests, in writing, that the division maintain the well records as confidential information. The confidential period shall not exceed five years from the date of production or injection for other than testing purposes or abandonment, whichever occurs first. Well records which are maintained as confidential information by the division shall be open to inspection by those persons who the owner or operator authorizes in writing. For purposes of this section, "date of production for other than testing purposes" means the date on which, in the judgment of the supervisor, sustainable production commenced into a power generating plant, greenhouse, space heating unit, chemical or mineral extraction plant, or other facility dependent wholly or in part upon geothermal resources for its operation. Confidential status shall not apply to state officers charged with regulating well operations, the director, or as provided in subdivision (b).

(3) On receipt by the supervisor of a written request documenting extenuating circumstances relating to a particular well, the supervisor may extend the period of confidentiality for six months. The total period of confidentiality, including all extensions, shall not exceed seven years from the date of production or injection for other than testing purposes or abandonment, unless the director approves a longer period after a 30-day public notice and comment period. The director shall initiate and conduct a public hearing on

receipt of a written complaint.

(b) Production reports filed pursuant to Section 3745 shall be open to inspection by the State Board of Equalization or its duly appointed representative when making a survey pursuant to Section 1815 of the Revenue and Taxation Code or when valuing state-assessed property pursuant to Section 755 of the Revenue and Taxation Code, and by the assessor of the county in which a well referred to in Section 3745 is located.

(c) For the purposes of this section, "well records" does not include either experimental logs and tests or interpretive data not generally available to all operators, as defined by the supervisor by regulation.

CHAPTER 1180

An act to add Sections 42301.3 and 42322.5 to the Health and Safety Code, relating to air pollution.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 42301.3 is added to the Health and Safety Code, to read:

42301.3. (a) It is the intent of the Legislature that districts expedite permits for the installation of air pollution control equipment.

(b) This section applies only to the permitting of air pollution control projects required by law.

(c) Each district shall prepare, with input from the regulated community, a list of permitting criteria that identifies streamlined permit application requirements for each type of mandated air pollution control project. The list shall be consistent with the requirements of this section but may also include general facility information, a general description of the equipment affected by the air pollution control project, and specific information regarding the pollution control equipment or operational changes that will reduce emissions.

(d) (1) Within 30 days of the date that the applicant submits the information specified in paragraph (2), the district shall commence evaluation and deem the application complete, subject to the final as-built design submittal being consistent with the preliminary engineering and design information specified in subparagraph (B) of paragraph (2), for the purpose of issuing a permit to construct. Notwithstanding the limitations of Sections 65944, 65950, and 65952 of the Government Code, if final design information results in a material change in the permit evaluation that was based on the

preliminary submittal, the application shall undergo a new evaluation based on the final design and the district shall promptly notify the applicant of any further information that is necessary to complete the evaluation.

(2) The applicant shall provide the following information:

(A) The information specified in the list prepared pursuant to subdivision (c).

(B) Either of the following:

(i) Preliminary engineering and design information or other technical equipment specification data reasonably available during the initial design phase.

(ii) The manufacturer's performance warranty and the associated preliminary engineering data on which the bidding documents for the contract with the manufacturer were based.

(C) Any reasonably required information regarding an air contaminant for which emissions will increase as a result of installation of the air pollution control project.

(e) Prior to the final approval of the applicant's permit to operate, the applicant shall provide the district with final engineering and design information and other data reasonably necessary to ensure compliance with applicable emission limitations. The information may be based on source test results and other operating data available after startup and shakedown of the control equipment. Once the applicant has provided the information specified in this subdivision, and the final design is consistent with the preliminary design data specified in subparagraph (B) of paragraph (2) of subdivision (d) for purposes of permit evaluation, the district shall deem the application complete for the purpose of issuing a permit to operate.

(f) For projects subject to this section for which the use of continuous emission monitoring systems is required, the air quality permit conditions that relate to emissions monitored by the continuous emission monitoring systems shall be sufficient for measurements and reporting as required to meet the specified emission limit as required by the rule or regulation.

(g) An applicant may petition the district hearing board for a variance from the underlying requirement if there is a delay in the approval of the permit to construct or permit to operate for projects under this section. If the hearing board finds that the delay is not due to the lack of due diligence on the part of the applicant in the permitting process, and the delay results in the inability of the applicant to legally comply with the rule or compliance schedule that requires the installation and operation of the pollution control equipment, the hearing board shall find that all of the findings required pursuant to Section 42352 are met and grant the variance. The variance shall extend, at a minimum, for the period of time that the hearing board finds that the delay was not due to the lack of diligence on the part of the applicant.

(h) If a supplemental or other environmental impact report or

other environmental assessment is required for the project pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and the district is the lead agency, the district shall prepare and act upon the report or assessment and the permit to construct concurrently in order to streamline the approval process.

(i) For purposes of this section, "material change" means a change that would result in a material impact on the level of emission calculated.

SEC. 2. Section 42322.5 is added to the Health and Safety Code, to read:

42322.5. Districts with a population of more than 500,000 persons shall additionally implement the following permit streamlining measures:

(a) Upon a permit applicant's request, the district shall allow the permit applicant to meet with district staff prior to the submittal of a permit to construct in order to identify issues and ways to expedite the permitting process.

(b) The district shall allow the permit applicant to propose conditions that are consistent with the applicable rules or regulations for the district's consideration.

(c) Before a district implements a rule or regulation for categories of emission sources for which significant capital expenditures will be required, the district shall develop, with input from the regulated community, a permitting protocol for any permits that will be required for common types of operating equipment, processes, or related air pollution control equipment as a result of the rule or regulation. Each district shall compile those protocols and make them available to businesses that are regulated by the rule or regulation.

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.

CHAPTER 1181

An act to create the Willow Creek Valley Groundwater Management District, relating to water.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. This act shall be known and may be cited as the Willow Creek Valley Groundwater Basin Act. It is intended to supplement the Water Code and reads as follows:

WILLOW CREEK VALLEY GROUNDWATER BASIN ACT

Article 1. Creation

101. This act shall be known and may be cited as the Willow Creek Valley Groundwater Basin Act.

102. A groundwater management district is hereby created in Lassen County to be known as the Willow Creek Valley Groundwater Management District. The district shall be governed by a board of directors as specified in Section 401, shall have the boundaries specified in Section 201, and shall exercise the powers granted by this act for purposes of groundwater management within the boundaries of the district, together with such other powers as are reasonably implied and necessary and proper to carry out the purposes of the district. The Legislature hereby finds and declares that the preservation of the groundwater resources within the Willow Creek Valley Groundwater Basin for agricultural, municipal, and industrial uses is in the public interest and that the creation of the district pursuant to this act is for the common benefit of water users within the district and for the protection of agricultural and economic productivity.

Article 2. Boundaries

201. For the purposes of this act, the boundaries of the district are as follows:

(a) Of Township 31 North, Range 11 East-Sections 12 SE ¼ and 13.

(b) Of Township 31 North, Range 12 East-Sections 1, 2, 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25, and 26.

(c) Of Township 31 North, Range 13 East-Sections 7, 18, 19, and 30.

Article 3. Definitions

301. Unless otherwise indicated by their context, the terms defined in this article govern the construction of this act.

302. "Available supply" means the quantity of groundwater that can be withdrawn annually from the groundwater basin without resulting in, or aggravating, conditions of overdraft, subsidence, or groundwater quality degradation. Available supply of the groundwater basin includes the average annual natural water supply, or other water which has been spread to the basin or otherwise added to the basin, and return flows to the basin attributable to these sources reaching the groundwater basin in the course of use.

303. "Board of directors" or "board" means the board of directors of the district.

304. "County" means the County of Lassen.

305. "Development project" means a project undertaken for the purpose of development of property involving the issuance to a person of a lease, permit, license, certificate, or other entitlement for use granted by one or more public agencies, including, but not limited to, any of the following:

(a) A tentative map or tentative parcel map required by local ordinance or the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code).

(b) A special or conditional use permit.

(c) A zone amendment.

306. "District" means the Willow Creek Valley Groundwater Management District.

307. "Export" means groundwater extracted for use outside the boundaries of the district.

308. "Extraction" means the act of obtaining groundwater by pumping or other controlled means.

309. "Extraction facility" means any device or method for the extraction of groundwater within the groundwater basin.

310. "Groundwater" means water beneath the surface of the earth within the zone below the water tables in which the soil is completely saturated with water. "Groundwater" does not include any water which on January 1, 1994, is subject to appropriation under Part 2 (commencing with Section 1200) of Division 2 of the Water Code.

311. "Groundwater basin" means the Willow Creek Valley Groundwater Basin as described in Section 201.

312. "Metering device" means a water flow measuring device as approved by the board of directors.

313. "Operator" means the person who operates an extraction facility. "Operator" also means the person whom the county assessor assesses for the extraction facility or, if not separately assessed, the person who owns the land upon which an extraction facility is located.

314. "Overdraft" means the condition of the groundwater basin

where the average annual amount of water extracted exceeds the average annual supply of water to the basin, plus any temporary surplus.

315. "Person" includes any state or local governmental agency, private corporation, firm, partnership, individual, group of individuals, nonprofit association, or, to the extent authorized by law, any federal agency.

316. "Program" means a groundwater management program prepared by the district pursuant to this act.

317. "Replenishment" means spreading water over a permeable area for the purpose of allowing it to percolate to the groundwater basin, or otherwise adding water to the groundwater basin which without such effort would not augment the groundwater supply.

318. "Supplemental water" means surface water or groundwater imported from outside the watershed or watersheds of the groundwater basin and flood waters that are conserved and saved within the watershed or watersheds which would otherwise have been lost or would not have reached the groundwater basin.

319. "Temporary surplus" means the amount of water that can be extracted from the groundwater basin, without adversely affecting the available supply of the groundwater basin, to provide storage space for natural recharge that would be lost during wet years if it could not be stored in the groundwater basin.

320. "Water year" means the period from October 1 of one calendar year to September 30 of the following calendar year.

321. "Well interference" means a substantial water level decline in a localized area caused by pumping from extraction facilities.

322. "Zone of benefit" means an area, including, but not limited to, subbasins within the district which will benefit from planning, studies, or any management program undertaken by the district in a manner different from other areas or subbasins within the district.

Article 4. General Provisions

401. The district shall be governed by a board of directors consisting of five directors who are eligible voters in the district. Five directors shall be elected, at large, by eligible voters in accordance with Section 402.

402. (a) Only eligible voters may vote at district elections. An eligible voter is an owner of land with an extraction facility or facilities which is capable of extracting 100 gallons per minute, exclusive of domestic use. At the initial district election, voting rights shall be determined on the basis of initial groundwater extraction statements filed with the district for a specified period.

(b) (1) Each eligible voter has one vote for each acre of land owned and irrigated by one or more extraction facilities described in subdivision (a), as determined by the district.

(2) Notwithstanding paragraph (1), any eligible voter who has more than 50 percent of the total eligible votes for any election shall

have the number of his or her votes reduced to 50 percent of the total eligible votes for that election.

403. The board of supervisors of the county shall appoint the initial members of the board of directors. The appointed members of the board of directors shall so serve until extraction facilities within the district are registered, and initial groundwater extraction statements are filed with the district, at which time the board of supervisors shall call an election of directors. At the initial district election, the five persons receiving the highest number of votes shall be elected.

404. For land in multiple ownership, the owners shall designate in writing to the district, prior to the deadline set by the district, the eligible voter for voting purposes. If applicable, the owners shall designate in writing, prior to the deadline set by the district, the legal representative who shall be entitled to vote on behalf of the owners.

405. An eligible voter may vote at any district election either in person or by a person duly appointed as his or her proxy. The proxy may be executed by the legal representative or by the single owner designated pursuant to Section 404.

406. (a) No appointment of a proxy shall be valid, accepted, or vote allowed thereon at any district election unless it is in writing, executed by the eligible voter who is entitled to cast the votes for which the proxy is given, notarized, and specifies the election at which it is to be used. An appointment of a proxy may be used only at the specified election.

(b) An appointment of a proxy is revocable at the pleasure of the eligible voter who is entitled to cast the votes for which the proxy is given at any time before the person appointed as proxy has cast a ballot representing the votes for which the appointment was given.

407. Except as otherwise provided in this act, the county clerk shall conduct all elections. The board may, by resolution, determine that the district shall conduct an election and designate an officer who shall perform the duties of the county clerk in conducting the election.

408. The board may, by resolution, direct that any district election be conducted by all-mailed ballot under the procedure for mailed ballot elections set forth in the Elections Code. For a mailed ballot, eligible voters shall cast votes directly and not by proxy.

409. (a) Except for the initial elected directors, the elected directors shall serve for terms of four years. The terms shall be concurrent with the terms of district officials elected under the Uniform District Election Law (Part 3 (commencing with Section 23500) of Division 14 of the Elections Code).

(b) The five directors initially elected shall determine, by lot, the expiration dates for their initial terms. The term of two directors shall expire concurrently with the terms of officials subject to election at the next general election to be held under the Uniform District Election Law. The terms of the other three directors shall expire concurrently with the terms of officials to be elected at the subsequent general election to be held under the Uniform District

Election Law.

410. Prior to taking office, each elected director shall take the official oath and execute any bond that may be set by the board.

411. All vacancies occurring in the office of an elected director shall be filled pursuant to Section 1780 of the Government Code.

412. Each director may receive compensation in an amount set by the board and recorded in its official minutes, not to exceed fifty dollars ($50) per day for each day's attendance at meetings of the board or for each day's service rendered as a director by request of the board, not to exceed six days in any calendar month, together with actual, necessary, and reasonable expenses incurred in the performance of duties required or authorized by the board.

413. At its first meeting and at its regular meeting in January, and each year thereafter, the board shall elect a chairperson and vice chairperson from its members.

414. (a) No change in the date of the regular meeting of the board of directors shall be effective until notice thereof has been published in a newspaper of general circulation within the district at least seven days prior to the effective date of the change.

(b) Special meetings of the board may be called and conducted in the manner provided for in the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

415. A majority of the board constitutes a quorum for the transaction of business.

416. The vote of a majority of the directors present at any meeting attended by a quorum is necessary to take action, unless otherwise specified in this act.

417. Any extraction facility which is not capable of extracting 100 gallons per minute, exclusive of domestic use, is exempt from the requirements of this act, including charges levied and imposed pursuant to Article 8 (commencing with Section 801) and Article 9 (commencing with Section 901).

418. This act may not be construed to deny the county or any other district any rights or powers they already have or which they may be granted.

419. The district may establish penalties for violations of district ordinances that are in addition to the remedies specified in this act.

420. (a) Any ordinance adopted pursuant to this act shall become effective 30 days after adoption. Within 10 days after its adoption, the ordinance shall be published pursuant to Section 6061 of the Government Code. From and after the effective date of adoption, any person who does not comply with the ordinance may be liable civilly for a sum not to exceed one thousand dollars ($1,000) for each day an ordinance is not complied with, in addition to any penalties established pursuant to Section 419.

(b) Without following the procedures otherwise required prior to the adoption of an ordinance pursuant to subdivision (a), the board of directors, to protect the public safety, health, and welfare, may

adopt as an urgency measure an interim ordinance. That urgency measure shall require a four-fifths vote of the board for adoption. The interim ordinance is without force and effect 45 days from its adoption. After notice pursuant to Section 6061 of the Government Code and a public hearing, the board may extend the interim ordinance for 10 months and 15 days by a four-fifths vote of the board.

421. Within 60 days after publication of any ordinance or resolution establishing, or in furtherance of, a groundwater management program, any interested party may file with the superior court a petition for writ of mandate for the review thereof. Failure to file an action does not preclude a party from challenging the validity of the ordinance or resolution in any judicial proceedings brought to enforce the ordinance or resolution or for any other civil remedies, including the imposition of civil penalties. The right to seek judicial review shall not be affected by the failure to seek reconsideration from the board of directors.

422. The board of directors may reconsider all or part of a decision on petition of any person affected by the decision. Any such petition shall be filed with the district within 15 days after adoption of the decision by the board of directors. The board of directors shall decide whether to reconsider its decision within 60 days after the petition is filed.

424. The board may employ and appoint any agents, officers, employees, attorneys, accountants, and consultants as may be required, prescribe their duties, fix their compensation, and prescribe the terms and conditions of their employment.

425. The district may enter into memorandums of agreement or joint powers agreements for the purpose of carrying out this act, including agreements with the County of Lassen or other local or state agencies.

Article 5. Studies and Investigations

501. The district may carry on technical and other necessary investigations of all kinds and collect data necessary to carry out this act. The district shall have the right of access to all properties within the district to the extent permitted by the United States Constitution and the California Constitution.

502. The district may cooperate and contract with federal, state, and local governmental agencies in the conduct and performance of all investigations, studies, and data collection.

503. The district may not implement groundwater management programs until the board of directors has received the recommendations of its engineers, consultants, and staff based on these investigations and studies.

504. The district shall prepare annually a report on groundwater supplies and conditions in the district. If the district makes a determination that groundwater management activities are necessary, the annual report shall include groundwater management

objectives and a plan for the implementation of those objectives.

Article 6. Registration of Groundwater Extraction Facilities

601. The district may require extraction facilities to be registered with the district and measured with a water flow measuring device installed and calibrated by the district or, at its option, by the extraction facility operator. The district may also require any new extraction facility which is constructed, existing extraction facility which is deepened, or abandoned extraction facility which is reactivated to be registered with the district within 60 days of completion of construction, deepening, or reactivation, and measured with a water flow measuring device installed and calibrated by the district or, at its option, by the extraction facility operator.

602. In addition to other information which the district may require, the district may require for each registered extraction facility information as to the operator of each extraction facility, the owner of the land upon which each extraction facility is located, and a general description of the equipment associated with each extraction facility and the location of each water extraction facility.

603. No person may extract groundwater from any extraction facility required to be registered unless the extraction facility has been registered with the district and, if required, has a water flow measuring device affixed. Any person who does not comply with this section shall be liable civilly for a sum not to exceed one thousand dollars ($1,000) for each day this section is not complied with, in addition to any penalties established pursuant to Section 419.

604. The district may, after notice and a hearing, and based upon the findings and determinations from the hearing, require the operator of each extraction facility, until the extraction facility has been permanently abandoned, to file with the district, by a date established by the board of directors, a statement relative to groundwater extraction, including, but not limited to, the gallons per minute which may be extracted from each extraction facility, the static groundwater level for each extraction facility, a general description or number locating each extraction facility, use and acreage served by the extraction facility, and the method of measuring or computing groundwater extraction. The statement shall be verified by a written declaration that it is made under penalty of perjury. The operator of an extraction facility which has been permanently abandoned shall give written notice of the abandonment to the district.

605. When a water flow measuring device is used at an extraction facility, the record of extraction, as disclosed by the water flow measuring device, shall be presumed to be accurate and shall be used as the basis for computing the water extraction of the extraction facility in completing the groundwater extraction statement. The district may require proof of the accuracy of the water flow

measuring device from the operator and may, absent adequate proof of accuracy, order the operator to have the water flow measuring device calibrated in a manner acceptable to the district. If the district has probable cause to believe that the extraction of groundwater from any extraction facility is in excess of the amount reported in groundwater extraction statements, or if no statements are filed covering an extraction facility, the district may investigate the extraction of water from each such extraction facility.

606. The board of directors may establish reasonable methods to be used in computing the amount of water extracted by extraction facilities.

607. Any person who does not file a groundwater extraction statement, if required to do so, or any person who injures, alters, removes, resets, adjusts, manipulates, obstructs, or in any manner interferes or tampers with, or procures, causes, or directs any person to injure, alter, remove, reset, adjust, manipulate, obstruct, or in any manner interfere or tamper with, any water flow measuring device affixed to any extraction facility as required by this act so as to cause the water flow measuring device to improperly or inaccurately measure and record water extraction, or any person who, with intent to evade any provision or requirement of this act, files with the district any false or fraudulent groundwater extraction statement, shall be liable civilly in a sum of not more than one thousand dollars ($1,000).

Article 7. Powers of the District

701. If, upon receipt of the recommendations of its engineers, consultants, and staff, the board of directors determines that groundwater management activities may be necessary, the board of directors shall, after compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), give notice of, and hold, a hearing to receive evidence on the need for a program and on the form and scope of the management activities required. The requirement in this section for compliance with the California Environmental Quality Act does not affect any requirement under existing law to comply with that act in connection with other discretionary actions undertaken by the board.

702. If, upon conclusion of the hearing, and consideration of any relevant investigation, study, or data collection performed pursuant to Article 5 (commencing with Section 501) or Article 6 (commencing with Section 601), the board of directors determines that management in the form proposed is necessary for the sound management of the groundwater within the groundwater basin, the district may, by ordinance, exercise any of the following powers:

(a) The district may store water in, and recapture water from, surface reservoirs or groundwater basins within the district.

(b) The district may conserve and reclaim water within or outside

the district and require conservation practices and measures within the district.

(c) The district may construct conveyance, storage, or other water facilities to carry out this act.

(d) The district, in order to improve and protect the quality of groundwater supplies or to respond to, and rectify, conditions of subsidence, may treat, inject, extract, or otherwise regulate water, including, but not limited to, the regulation of extractions and drainage problems. These powers include the right to regulate, limit, or suspend extractions from extraction facilities, the construction of new extraction facilities, the enlarging of existing facilities, or the reactivation of abandoned extraction facilities.

(e) The district may regulate groundwater replenishment programs and recapture supplemental groundwater. The district may determine the amount of groundwater basin storage space available and to allocate groundwater basin storage space within the groundwater basin.

(f) The district may commence and prosecute actions to enjoin unreasonable uses or methods of use of groundwater within the district or outside the district to the extent those uses or methods of use affect the groundwater supply within the district.

703. The district may impose spacing requirements on new extraction facility construction to minimize well interference.

704. The district may, at the request of a district water user, impose reasonable operating regulations on extraction facilities to minimize well interference. The regulations may, if necessary and feasible, require the operation of extraction facilities on a rotation basis. Rotation is not feasible if it would require an overlying owner to construct a new well to irrigate the acreage being irrigated by a single existing well.

705. (a) The district may, at the request of a water user, and after notice to all affected persons, convene a hearing to ascertain if the legal rights of the complaining water user have been infringed through well interference by the operation of other extraction facilities within the district.

(b) If, on the basis of the hearing record, the board of directors determines that the legal rights of the complaining water user have been infringed, the board of directors may make necessary orders to provide the complaining water user with an adequate remedy to the well interference.

(c) The district may petition the appropriate superior court for enforcement of its order.

706. (a) (1) No groundwater shall be exported from the district unless the exporter has applied for and obtained a permit from the district which establishes the quantity of water which may be exported and the conditions on the export. Notwithstanding any conditions specified in the permit, exporters are subject to Section 707.

(2) In implementing this section, the district shall coordinate with

the county to ensure that the applicant obtains any additional permits required by other provisions of law. This section does not grant the county any additional permitting authority or require any action by the county.

(b) The district shall not issue any permit to export water from the district unless the applicant has established that there is an available supply as defined in this act, in excess of the amount currently required for reasonable and beneficial uses within the district, and the board of directors determines that the export, if permitted, would not adversely affect the rights of groundwater users within the district. The district shall issue permits for export for such time periods and under such terms and conditions as it deems appropriate. All permits shall state that they are subject to the right of the district to reduce or suspend exports as provided for in this act.

707. The district shall, after published notice and a hearing which discloses evidence of overdraft, or threat of overdraft, reduce or suspend extractions by exporters regardless of whether a permit to export has been granted pursuant to this act.

708. If the evidence produced at the hearing specified in Section 707, or in any subsequent hearing, tends to show that reduction or suspension of extraction by exporters will be insufficient to eliminate existing or threatened conditions of overdraft, the district may limit or suspend extractions by district users in accordance with Section 709.

709. If the district limits or suspends extractions by district users in order to eliminate existing or threatened conditions of overdraft, rights to the use of the available supply of groundwater shall be allocated primarily on the basis of the number of irrigable acres overlying the basin or subbasin that a user owns or leases in proportion to the total number of irrigable acres overlying the basin or subbasin. The district may adjust any limitation or suspension of extraction on the basis of any of the following factors:

(a) The number of acres actually irrigated compared to the number of acres owned or leased.

(b) Crop type.

(c) Wasteful or inefficient use.

(d) Reasonable need.

(e) Water conservation activities.

(f) Prior industrial use and the need for water supply for continued operation.

(g) Any other factors that the district reasonably feels it should consider in order to reach an equitable distribution within the entire district.

710. If the district has imposed reductions on district users pursuant to Section 708, no person operating extraction facilities may extract groundwater from a new, enlarged, or reactivated extraction facility for use within the district until the operator has applied for and received a permit from the district.

711. (a) The district shall grant a permit referred to in Section 710

upon determining the operator's share of the available supply from the groundwater basin or subbasin in the manner described in Section 709 and may limit the right to extract groundwater to that share. To the extent necessary, the district shall adjust the authorized extractions by other district users.

(b) The district may postpone the effective date of any increase authorized in subdivision (a) to the start of the next water year. The district may also establish a date by which any application is required to be submitted in order to be effective at the start of the next water year.

712. If any court is petitioned to adjudicate the groundwater basin or any part thereof, whether the petition is filed by the district or by any person, the court may base any judgment, ruling, or findings of fact primarily on the number of overlying irrigable acres that the parties own in proportion to the total number of overlying irrigable acres in the basin or subbasin. In order to reach an equitable distribution, the court may adjust any amounts so arrived at on the basis of any of the following factors:

(a) Historical pumpage.

(b) Wasteful or inefficient use.

(c) Reduction or suspension of extractions required by the district.

(d) Water conservation activities.

(e) Any other factors determined by the court to be appropriate.

(f) Reasonable need.

713. In order to preserve and manage the groundwater resources of the district, the district may commence, maintain, intervene in, defend and compromise, and assume the costs and expenses incurred by the district in actions and proceedings involving groundwater, including, but not limited to, groundwater rights adjudication.

Article 8. Groundwater Extraction Charges

801. (a) Groundwater extraction charges imposed pursuant to this act are declared to be in furtherance of district activities to manage groundwater resources in the groundwater basin which are necessary for the health, welfare, and safety of the public. Groundwater extraction charges are charges for the groundwater management services rendered by the district and shall only be used to finance or otherwise support those services.

(b) Groundwater extraction charges may be imposed for the benefit of all who rely directly upon the groundwater resources of the district. Groundwater extraction charges may be imposed upon the extraction of groundwater from all groundwater extraction facilities that are subject to this act, except the extraction of water stored pursuant to a groundwater storage agreement or other storage commenced before the creation of the district, and except upon the use of supplemental water as an alternate source in lieu of groundwater.

802. (a) Groundwater extraction charges may be imposed for the purpose of paying the costs of initiating, carrying out, and completing any of the powers, projects, and purposes set forth in Article 6 (commencing with Section 601) and Article 7 (commencing with Section 701), except that the charge may not exceed the annual cost to the district incurred in carrying out the powers, projects, and purposes of this act. These activities shall be consistent with the rendering of groundwater management services by the district.

(b) Groundwater extraction charges shall be imposed only within a zone or zones of benefit of the district that will benefit from the management activities set forth in Article 6 (commencing with Section 601) and Article 7 (commencing with Section 701).

803. (a) Before groundwater extraction charges may be imposed, the board of directors shall, after notice and a hearing, identify the activities required to prepare or implement any groundwater management program for the district and to initiate, carry out, or complete any of the other powers, projects, and purposes set forth in Article 6 (commencing with Section 601) and Article 7 (commencing with Section 701) and the amount of money necessary for the next water year for those activities.

(b) The board of directors shall determine the need and desirability of imposing a groundwater extraction charge for the purpose of paying the costs of initiating, carrying out, and completing any of the powers, projects, and purposes set forth in Article 6 (commencing with Section 601) and Article 7 (commencing with Section 701). The board of directors shall find that the charge is necessary to pay for or otherwise support the groundwater management services provided by the district, except that the charge may not exceed the annual cost to the district incurred in carrying out the powers, projects, and purposes of this act.

804. The groundwater extraction charge rate shall be uniform for groundwater extraction within each zone of benefit in the district.

805. Groundwater extraction charges shall be calculated on the basis of groundwater extraction statements required to be filed pursuant to this act.

806. The total of the groundwater extraction charges imposed in any year shall not exceed an amount of money found to be necessary to pay the costs of initiating, carrying out, and completing any of the powers, projects, and purposes set forth in Article 6 (commencing with Section 601) and Article 7 (commencing with Section 701).

807. The groundwater extraction charge may, at the option of the district, be collected on the tax rolls of the county in the same manner, by the same persons, and at the same time as, together with and not separately from, county ad valorem property taxes. In lieu of this election, the district shall collect groundwater extraction charges at the same time, together with penalties and interest at the same rates, as is prescribed for the collection of county ad valorem

property taxes. The amount of an unpaid groundwater extraction charge, together with any penalty or interest thereon, constitute a lien on that land as of the same time and in the same manner as does the tax lien securing county ad valorem property taxes.

Article 9. Management Charges

901. Management charges are hereby declared to be charges imposed on an operator or operators within the district for the benefit of all who rely directly upon the groundwater resources of the district.

902. Each year the district may fix a management charge for the purpose of paying the costs of initiating, carrying on, and completing any of the powers, projects, and purposes for which the district is organized, except that the charge shall not exceed the annual cost to the district incurred in carrying out the powers, projects, and purposes of this act.

903. Before the management charges may be imposed, the board of directors shall, after notice and a hearing, identify the portions of the district to be benefited by management and planning activities, the need for management charges for the purpose of paying the costs of these activities, and the amount of the charges to be imposed.

904. The management charge shall be collected on the tax rolls of the county in the same manner, by the same persons, and at the same time as, together with and not separately from, county ad valorem property taxes.

905. The amount of an unpaid management charge, together with any penalty and interest thereon, constitute a lien on that land as of the same time and in the same manner as does the tax lien securing county ad valorem property taxes.

Article 10. Zones of Benefit and Assessment Districts

1001. The district may use the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code, the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code), the Improvement Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code), and the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code), for the construction of any facilities authorized to be constructed by the district.

1002. (a) The board of directors may establish zones of benefit within the district. Resolutions of the board of directors shall describe the boundaries of the zones of benefit.

(b) The board of directors may amend zone of benefit boundaries by annexing property to, or by withdrawing property from, a zone, or may divide a zone into two or more zones. The board of directors

shall, by resolution, describe the boundaries of the amended or divided zones.

Article 11. Development Projects

1101. After creation of the district, any person seeking approval from a local agency having land use jurisdiction of a development project proposed to be located wholly or in part within the boundaries of the district and which proposes to extract groundwater for service of water shall, at the time of filing an application with the local agency, file with the district documents describing the proposed sources of water, the amount of water required, the amounts of groundwater previously used on the property proposed to be developed, and other information that the district may reasonably require.

1102. The district shall be considered a "responsible agency," as defined in Section 65933 of the Government Code, and shall submit the finding described in Section 1103 within the time period established by Section 65952 of the Government Code. The district shall comply with Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code. The application for the development project shall be deemed complete for purposes of Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code when the information required by Section 1101 has been provided to the district and when the information required by Section 65943 of the Government Code has been provided to the local agency with land use jurisdiction.

1103. (a) The district shall determine whether sufficient groundwater is available for the proposed use by a development project based on the projected use of groundwater by the project. The district shall determine that sufficient groundwater is available for use by a development project upon demonstration to the district's satisfaction by the person seeking approval of the development project that the development project will not use more water than is found to be available pursuant to subdivision (b).

(b) In determining whether sufficient groundwater is available for a development project, the district shall take into account that groundwater is to be allocated primarily on the basis of the number of irrigable acres overlying the basin or subbasin that the development project occupies in proportion to the total number of irrigable acres overlying the basin or subbasin, but that the allocation may be adjusted on the basis of any of the following factors:

(1) The total number of overlying acres actually irrigated or reasonably susceptible of irrigation compared to the total number of overlying acres in the basin.

(2) The number of overlying acres being irrigated from surface water sources.

(3) Crop types.

(4) Wasteful or inefficient use.

(5) Reasonable needs of water users within the district.

(6) Any possible reduction or suspension of exports which would allow in-district groundwater use to take place.

(7) Water conservation activities.

(8) Any other factors that the district determines to be appropriate for consideration.

1104. (a) Notwithstanding any other provision of law, no local agency having land use jurisdiction shall approve a proposed development project which proposes to use groundwater from the basin unless one of the following occurs:

(1) The district determines that sufficient groundwater is available to the development project pursuant to Section 1103.

(2) The local agency having land use jurisdiction conditions their approval on a determination by the district, pursuant to Section 1103, that there is sufficient groundwater available for use by the development project.

(b) If, pursuant to paragraph (2) of subdivision (a), a local agency having land use jurisdiction conditionally approves a proposed development project, and if the district subsequently finds that sufficient groundwater is not available for the development project, the development project shall be deemed to be denied by the local agency as a matter of law without the local agency taking further action.

1105. Nothing in this article limits the district's general powers to regulate groundwater extraction and use in development projects in the same manner as other extractions and use within the district.

Article 12. Enforcement Powers

1201. Upon the failure of any person to comply with any of the provisions of this act, including, but not limited to, the registration of extraction facilities and installation of measuring devices, filing of statements, payment of extraction charges, or payment of management charges, or upon the failure of any person to comply with any ordinance adopted by the board of directors pursuant to this act, the district may petition the superior court of the county for a temporary restraining order or preliminary or permanent injunction prohibiting the person from operating an extraction facility or for other injunctive relief that may be appropriate. The temporary restraining order shall be returnable to the court on or before 10 days after its issuance.

1202. The right to proceed for injunctive relief is in addition to other rights which may be granted elsewhere in this act or otherwise allowed by law. The district shall not be required to provide an undertaking or bond as a condition of a grant of injunctive relief.

1203. In any action brought pursuant to this act in which a temporary restraining order, preliminary injunction, or permanent injunction is sought, it is not necessary to allege or prove at any stage of the proceeding that irreparable damage will occur should the

temporary restraining order, preliminary injunction, or permanent injunction not be issued, or that the remedy at law is inadequate, and the temporary restraining order, preliminary injunction, or permanent injunction shall issue without those allegations and without that proof.

1204. The district may petition the superior court of the county to recover any sums due to the district pursuant to this act. The district shall make that request only after a hearing with due notice of the hearing provided to all affected persons.

1205. Remedies under this article are in addition to, and do not supersede or limit, any and all other civil or criminal remedies.

1206. All money collected by the district pursuant to this act shall be deposited in an account and shall be available without regard to fiscal year for expenditure by the district in carrying out its groundwater management functions pursuant to this act.

SEC. 2. The Legislature finds and declares that this act, which is applicable only to the Willow Creek Valley Groundwater Management District, is necessary because of the unique and special groundwater management opportunities and potential groundwater problems in the area included in the district. It is, therefore, hereby declared that a general law within the meaning of Section 16 of Article IV of the California Constitution cannot be made applicable to the district and that the enactment of this special law is necessary for the conservation, development, control, and use of that water for the public good.

SEC. 3. 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 1182

An act to add Section 14036.8 to the Government Code, relating to railroads.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 14036.8 is added to the Government Code, to read:

14036.8. (a) The department, using existing rail marketing funds, shall fully participate in the railroad public safety awareness

program known as "Operation Lifesaver." The department shall work with school officials to develop a school assembly program designed to enhance student awareness of the dangers of trespassing on railroad property, and the operating characteristics of trains. Initially, the school assembly program shall be implemented on the route of the department-sponsored Capitol Corridor. School officials shall cooperate with the department to identify the schools most affected by the operation of higher speed passenger trains.

(b) The department shall provide appropriate signs to be posted on or adjacent to railroad property within 1,000 feet of schools where upgrading of railroad lines has resulted in an increase of operating speeds of passenger trains on those lines by 20 mph or more on or after December 1, 1991. The signs shall be designed to communicate both in words and in pictures, using internationally recognized symbols, to warn of train-related hazards. The signs shall be posted on the school side of the railroad property at a site to be determined by school officials and railroad representatives. At the request of the department, a railroad that owns the property specified in this subdivision shall install and maintain the signs.

(c) For the purposes of this section, a "school" is any public school that maintains classes in kindergarten or of grades 1 to 12, inclusive.

(d) The installation or maintenance of signs pursuant to this section shall not in any way affect the liability of the state or any of its agencies, officers, or employees, or of the owner of the railroad right-of-way, on account of personal injury or property damage alleged to have been caused, in whole or in part, by a sign, or the installation or maintenance of a sign, installed and maintained pursuant to this section.

CHAPTER 1183

An act to add Section 597o to the Penal Code, relating to animals.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 597o is added to the Penal Code, to read:

597o. (a) Any person who transports an equine in a vehicle to slaughter shall meet the following requirements:

(1) The vehicle shall have sufficient clearance to allow the equine to be transported in a standing position with its head in a normal upright position above its withers.

(2) Any ramps and floors in the vehicle shall be covered with a nonskid surface to prevent the equine from slipping.

(3) The vehicle shall provide adequate ventilation to the equine while the equine is being transported.

(4) The sides and overhead of the vehicle shall be constructed to withstand the weight of any equine which may put pressure against the sides or overhead.

(5) Any compartments in the interior of the vehicle shall be constructed of smooth materials and shall contain no protrusions or sharp objects.

(6) The size of the vehicle shall be appropriate for the number of equine being transported and the welfare of the equine shall not be jeopardized by overcrowding.

(7) Stallions shall be segregated during transportation to slaughter.

(8) Diseased, sick, blind, dying, or otherwise disabled equine shall not be transported out of this state.

(9) Any equine being transported shall be able to bear weight on all four feet.

(10) Unweaned foals shall not be transported.

(11) Mares in their last trimester of pregnancy shall not be transported.

(12) The person shall notify a humane officer having jurisdiction 72 hours before loading the equine in order that the humane officer may perform a thorough inspection of the vehicle to determine if all requirements of this section have been satisfied.

(b) (1) Any person who violates this section is guilty of a misdemeanor and is subject to a fine of one hundred dollars ($100) per equine being transported.

(2) Any person who violates this section for a second or subsequent time is guilty of a misdemeanor and shall be fined five hundred dollars ($500) per equine being transported.

(c) Whenever a person is taken into custody by an officer for a violation of this section, the officer shall take charge of the vehicle and its contents and deposit the property in some place of custody.

(d) (1) Any necessary expense incurred for taking care of and keeping the property described in subdivision (c) is a lien thereon, to be paid before the property can be lawfully recovered.

(2) If the expense, or any part thereof, remains unpaid, it may be recovered by the person incurring the expense from the owner of the equine in an action therefor.

(e) For the purposes of this section, "equine" means any horse, pony, burro, or mule.

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 1184

An act to amend Section 25359.5 of, and to add Chapter 6.65 (commencing with Section 25260) to Division 20 of, the Health and Safety Code, relating to hazardous materials.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Chapter 6.65 (commencing with Section 25260) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 6.65. UNIFIED AGENCY REVIEW OF HAZARDOUS MATERIALS RELEASE SITES

25260. The definitions set forth in this section shall govern the interpretation of this chapter. Unless the context requires otherwise and except as provided in this chapter, the definitions contained in Article 2 (commencing with Section 25310) of Chapter 6.8 shall apply to the terms used in this chapter.

(a) "Administering agency" means the agency designated by the committee pursuant to Section 25262.

(b) "Advisory team" means the team convened by the committee pursuant to Section 25263.

(c) "Agency" means any city, county, district, commission, the state, or any department, agency, or political subdivision thereof, that has jurisdiction under a state or local law, ordinance, or regulation to supervise, oversee, or approve a site investigation and a remedial action at a hazardous materials release site.

(d) "Hazardous material" means a substance or waste that, because of its physical, chemical, or other characteristics, may pose a risk of endangering human health or safety or of degrading the environment. "Hazardous material" includes, but is not limited to, all of the following:

(1) A hazardous substance, as defined in Section 25281 or 25316.

(2) A hazardous waste, as defined in Section 25117.

(3) A waste, as defined in Section 470 or as defined in Section 13050 of the Water Code.

(e) "Hazardous materials release site" or "site" means any area, location, or facility where a hazardous material has been released or threatens to be released into the environment. "Hazardous materials release site" does not include a site subject to a response and cleanup operation under Chapter 7.4 (commencing with Section 8670.1) of Division 1 of Title 2 of the Government Code or a corrective action under Part 6 (commencing with Section 46000) of Division 30 of the Public Resources Code.

(f) "Committee" means the Site Designation Committee created

by Section 25261.

(g) "Remedial action" means actions required by state or local laws, ordinances, or regulations that are necessary to prevent, minimize, or mitigate damage that may otherwise result from a release or threatened release of a hazardous material, and that are consistent with a permanent remedy for a hazardous materials release. "Remedial action" includes, but is not limited to, the cleanup or removal of released hazardous materials from the environment, monitoring, testing and analysis of the site, site operation and maintenance, and the placing of conditions, limitations, or restrictions on the uses of the site after remedial action has been completed.

(h) "Responsible party" means any person, except for an independent contractor, who agrees to carry out a site investigation and remedial action at a hazardous materials release site for one of the following reasons:

(1) The person is liable under a state or local law, ordinance, or regulation for the site investigation or remedial action.

(2) The site investigation or remedial action is required by a state or local law, ordinance, or regulation because of a hazardous materials release.

(i) "Site investigation" means those actions that are necessary to determine the full extent of a release or threatened release of a hazardous material at a hazardous materials release site, identify the public health and safety or environmental threat posed by the release or threatened release, collect data on possible remedies, and otherwise evaluate the hazardous materials release site for the purpose of implementing remedial action.

25261. (a) There is within the California Environmental Protection Agency a Site Designation Committee. The membership of the committee consists of the following five persons:

(1) Secretary for Environmental Protection.

(2) Director of Toxic Substances Control.

(3) Chairperson of the State Water Resources Control Board.

(4) Director of Fish and Game.

(5) Director of the Office of Environmental Health Hazard Assessment.

(b) The committee shall carry out the functions described in Sections 25262, 25263, and 25265 and shall meet as necessary to ensure that those functions are carried out in a timely manner. The decisions of the committee shall be subject to the concurrence of four members. The committee shall choose a chairperson from among its members. A committee member may designate an employee of the member's agency to participate in committee meetings in the member's place.

25262. (a) A responsible party for a hazardous materials release site may request the committee at any time to designate an administering agency to oversee a site investigation and remedial action at the site. The committee shall designate an administering

agency as responsible for the site within 45 days of the date the request is received. A request to designate an administering agency may be denied only if the committee makes one of the following findings:

(1) No single agency in state or local government has the expertise needed to adequately oversee a site investigation and remedial action at the site.

(2) Designating an administering agency will have the effect of reversing a regulatory or enforcement action initiated by an agency that has jurisdiction over the site, a facility on the site, or an activity at the site.

(3) Designating an administering agency will prevent a regulatory or enforcement action required by federal law or regulations.

(b) A responsible party who requests the designation of an administering agency for a hazardous materials release site shall provide the committee with a brief description of the site, an analysis of the known or suspected nature of the release or threatened release that is the subject of required site investigation or remedial action, a description of the type of facility from which the release occurred or the type of activity that caused the release, a specification of the regulatory or enforcement actions that have been taken, or are pending, with respect to the release, and a statement of which agency the responsible party believes should be designated as administering agency for the site.

(c) (1) The committee shall take all of the following factors into account in determining which agency to designate as administering agency for a site:

(A) The type of release that is the subject of site investigation and remedial action.

(B) The nature of the threat that the release poses to human health and safety or to the environment.

(C) The source of the release, the type of facility or activity from which the release occurred, the regulatory programs that govern the facility or activity involved, and the agency or agencies that administer those regulatory programs.

(D) The regulatory history of the site, the types of regulatory actions or enforcement actions that have been taken with respect to the site or the facility or activity from which the release occurred, and the experience and involvement that various agencies have had with the site.

(E) The capabilities and expertise of the agencies that are candidates for designation as the administering agency for the site and the degree to which those capabilities and that expertise are applicable to the type of release at the site, the nature of the threat that the release poses to health and safety or the environment and the probable remedial measures that will be required.

(2) After weighing the factors described in paragraph (1) as they apply to the site, the committee shall use the criteria specified in

subparagraphs (A), (B), (C), and (D) as guidelines for designating the administering agency. If more than one of the criteria apply to the site, the committee shall use its best judgment, taking into account the known facts concerning the hazardous materials release at the site and its regulatory history, in determining which agency may best serve as the administering agency. The criteria are as follows:

(A) The administering agency shall be the Department of Toxic Substances Control if one of the following applies:

(i) The department has issued an order, or otherwise initiated action, with respect to the release at the site pursuant to Section 25355, 25355.5, or 25358.3.

(ii) The department has issued an order for corrective action at the site pursuant to Section 25187.

(iii) The source of the release is a facility or hazardous waste management unit or an activity that is, or was, regulated by the department pursuant to Chapter 6.5 (commencing with Section 25100).

(iv) The department is conducting, or has conducted, oversight of the site investigation and remedial action at the site at the request of the responsible party.

(B) The administering agency shall be the California regional water quality control board for the region in which the site is located, if one of the following applies:

(i) The California regional water quality control board has issued a cease and desist order pursuant to Section 13301, or a cleanup and abatement order pursuant to Section 13304 of the Water Code in connection with the release at the site.

(ii) The source of the release is a facility or an activity that is subject to waste discharge requirements issued by the California regional water quality control board pursuant to Section 13263 of the Water Code or that is regulated by the California regional water quality control board pursuant to Article 5.5 (commencing with Section 25159.10) of, or Article 9.5 (commencing with Section 25208) of, Chapter 6.5, or pursuant to Chapter 6.67 (commencing with Section 25270).

(iii) The California regional water quality control board has jurisdiction over the site pursuant to Chapter 5.6 (commencing with Section 13390) of Division 7 of the Water Code.

(C) The administering agency shall be the Department of Fish and Game if the release has polluted or contaminated the waters of the state and the department has taken action against the responsible party pursuant to Section 2014 or 12015 of, or Article 1 (commencing with Section 5650) of Chapter 2 of Part 1 of Division 6 of, the Fish and Game Code, subsection (f) of Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act, as amended, (42 U.S.C. Sec. 9607 (f)), or Section 311 of the Federal Water Pollution Act, as amended (33 U.S.C. Sec. 1321).

(D) The administering agency shall be a local agency if any one

of the following circumstances is applicable:

(i) The source of the release at the site is an underground storage tank, as defined in subdivision (x) of Section 25281, the local agency is the agency described in subdivision (g) of Section 25281, and there is no evidence of any extensive groundwater contamination at the site.

(ii) The local agency has accepted responsibility for overseeing the site investigation or remedial action at the site and a state agency is not involved.

(iii) The local agency has agreed to oversee the site investigation or remedial action at the site and is certified, or has been approved, by a state agency to conduct that oversight.

(d) A responsible party for a hazardous materials release site may request the designation of an administering agency for the site pursuant to this section only once. The action of the committee on the request is a final action and is not subject to further administrative or judicial review.

25263. Any agency, including the administering agency, may request the committee at any time to convene an advisory team for the purpose of providing the administering agency with guidance in overseeing site investigation and remedial action at a hazardous materials release site. The committee shall create such an advisory team within 30 calendar days of the date of receipt of the request and shall designate the members of the advisory team after consulting with interested agencies. The advisory team shall be chaired by the representative of the agency that requested the advisory team to be convened and shall meet within five working days of the date that any agency requests a meeting. A representative of the administering agency shall attend all advisory team meetings.

25264. (a) The administering agency for a hazardous materials release site shall supervise all aspects of a site investigation and remedial action conducted by the responsible party and, for that purpose, the administering agency shall, notwithstanding any other provision of law, including, but not limited to, this division and Division 7 (commencing with Section 13000) of the Water Code, have sole jurisdiction over all activities that may be required to carry out a site investigation and remedial action necessary to respond to the hazardous materials release at the site. For purposes of this chapter, the administering agency shall do all of the following:

(1) Administer all state and local laws, ordinances, regulations, and standards that are applicable to, and govern, the activities involved with the site investigation and remedial action at the site.

(2) Determine the adequacy of site investigation and remedial action activities at the site and the extent to which the activities comply, or fail to comply, with applicable state and local laws, ordinances, regulations, and standards. In making these determinations, the administering agency shall consult with the advisory team if one has been convened pursuant to Section 25263.

(3) Issue permits or other forms of authorization that may be

required by state and local laws, ordinances, and regulations and that are necessary to undertake activities related to the site investigation and remedial action at the site. Before issuing a permit or other authorization pursuant to this paragraph, the administering agency shall consult with the appropriate agency and ensure that required procedures are followed and adequate permit requirements and conditions are imposed.

(b) Upon determining that a site investigation and remedial action at a hazardous materials release site has been satisfactorily completed and that a permanent remedy to the release has been accomplished, the administering agency shall issue the responsible party a certificate of completion. The certificate shall describe the release of hazardous materials that was the subject of the remedial action and the remedial action that was taken and shall certify that applicable remedial action standards and objectives were achieved.

(c) Except as otherwise provided in Section 25265 and this subdivision, the issuance of a certificate of completion by the administering agency shall constitute a determination that the responsible party has complied with the requirements of all state and local laws, ordinances, regulations, and standards that are applicable to the site investigation and remedial action for which the certificate is issued. No agency that has jurisdiction over hazardous materials releases pursuant to those state and local laws, ordinances, or regulations may take action against the responsible party with respect to the hazardous materials release that was the subject of the site investigation and remedial action for which a certificate of completion is issued unless one of the following applies:

(1) Monitoring, testing, or analysis of the hazardous materials release site subsequent to the issuance of the certificate of completion indicates that the remedial action standards and objectives were not achieved or are not being maintained.

(2) One or more of the conditions, restrictions, or limitations imposed on the site as part of the remedial action or certificate of completion are violated.

(3) Site monitoring or operation and maintenance activities that are required as part of the remedial action or certificate of completion for the site are not adequately funded or are not properly carried out.

(4) A hazardous materials release is discovered at the site that was not the subject of the site investigation and remedial action for which the certificate of completion was issued.

(5) A material change in the facts known to the administering agency at the time the certificate of completion was issued, or new facts, causes an agency to find that further site investigation and remedial action are required in order to prevent a significant risk to human health and safety or to the environment.

(6) The responsible party induced the administering agency to issue the certificate of completion by fraud, negligent or intentional nondisclosure of information, or misrepresentation.

25265. (a) Any agency may petition the chairperson of the committee at any time to review either of the following:

(1) The manner in which the administering agency is implementing state and local laws, ordinances, regulations, and standards applicable to the site investigation and remedial action that is being carried out by the responsible party at a hazardous materials release site.

(2) The decision to issue a certificate of completion for the site.

(b) The petition specified in subdivision (a) shall state the reasons why the review is warranted, the basis for believing that applicable state and local laws, ordinances, regulations, and standards are not being implemented properly, or the grounds for objecting to the issuance of a certificate of completion.

(c) The committee shall review the petition submitted pursuant to subdivision (a), consult with the petitioning and administering agencies, and make a decision regarding the validity of the petition within 30 calendar days of the date the petition is received. If the committee finds that the petition is not valid, it shall deny the petition. If it finds that the administering agency is not properly implementing a state or local law, ordinance, regulation, or standard, the administering agency shall be divested of exclusive jurisdiction over the implementation of that law, ordinance, regulation, or standard and the jurisdiction shall revert to the appropriate agency. If the committee finds that there are valid grounds for objecting to the issuance of a certificate of completion, the committee shall specify the actions that the responsible party and the administering agency shall be required to take before the certificate may be issued.

(d) Nothing in this section shall be construed to affect or limit the jurisdiction of the administering agency in connection with the administration of any state or local law, ordinance, regulation, or standard that has not been challenged under this section.

25266. The responsible party for a hazardous materials release site may, with the approval of the administering agency, terminate the application of this chapter to the site. The administering agency shall notify the committee, the advisory team, and any agency that may have jurisdiction over site investigation or remedial action at the site that the application of this chapter has been terminated. If the application of this chapter is terminated, the responsible party may not request the designation of another administering agency pursuant to Section 25262.

25267. If, at any time after site investigation or remedial action at a hazardous materials release site has begun, the administering agency determines that the information concerning the site that was available at the time the administering agency was designated was not accurate or was incomplete and that new information would likely have resulted in the designation of a different administering agency, the administering agency may request the committee to review the original designation. If, after reviewing the new information and considering the factors and guidelines specified in

subdivision (c) of Section 25262, the committee concludes that the original designation was not in the public interest, it may rescind the original designation and designate a different administering agency.

25268. Nothing in this chapter shall be construed as infringing on the right of any agency to obtain from the administering agency for a site the information which may be necessary for the agency to carry out its responsibilities under this chapter, including, but not limited to, its responsibilities under Section 25263, subdivisions (a) and (c) of Section 25264, and Section 25265.

SEC. 2. Section 25359.4 of the Health and Safety Code is amended to read:

25359.4. (a) A person shall not release, or allow or cause a release of, a reportable quantity of a hazardous substance into the environment which is not authorized or permitted pursuant to state law.

(b) Any release of a reportable quantity of hazardous substance shall be reported to the department in writing within 30 days of discovery, unless any of the following apply:

(1) The release is permitted or in the permit process.

(2) The release is authorized by state law.

(3) The release requires immediate reporting to the Office of Emergency Services pursuant to Section 11002 or 11004 of Title 42 of the United States Code, or pursuant to Section 25507.

(4) The release has previously been reported to the department or the Office of Emergency Services.

(c) For the purposes of this section, "reportable quantity" means either of the following:

(1) Any reportable quantity of a hazardous substance established in Section 302.4 of Title 40 of the Code of Federal Regulations.

(2) Any quantity of a hazardous substance that is not reportable pursuant to paragraph (1), but that may pose a significant threat to public health and safety or to the environment. The department may establish guidelines for determining which releases are reportable under this paragraph.

(d) The owner of property on which a release of a reportable quantity has occurred and any person who releases, or causes a release of, a reportable quantity and who fails to make the written report required by subdivision (b), shall be liable for a penalty not to exceed twenty-five thousand dollars ($25,000) for each separate violation and for each day that a violation continues. Each day on which the released hazardous substance remains is a separate violation unless the person has either filed the report or is in compliance with an order issued by a local, state, or federal agency with regard to the release.

(e) Liability under this section may be imposed in a civil action or may be administratively imposed by the department pursuant to Section 25359.3, as added by Chapter 1344 of the Statutes of 1992.

(f) If the violation of subdivision (b) results in, or significantly contributes to, an emergency, including, but not limited to, a fire, to

which a county, city, or district is required to respond, the responsible party may be assessed the full cost of the emergency response by the city, county, or district.

SEC. 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 1185

An act to amend Section 630 of the Harbors and Navigation Code, relating to harbors.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 630 of the Harbors and Navigation Code is amended to read:

630. The operator of every privately or publicly owned marina or small craft harbor, or facilities in connection therewith, furnishing electrical power to slips or berths for use aboard any vessel, may provide facilities for submetering to measure the electrical power actually used by or aboard each vessel and may base charges therefor upon that use.

CHAPTER 1186

An act to amend Items 3680-101-516, 3680-301-516, and 3760-301-164 of Section 2 of the Budget Act of 1993 (Chapter 55 of the Statutes of 1993), relating to coastal and water resources, and making an appropriation therefor.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Item 3680-101-516 of Section 2 of the Budget Act of 1993 (Chapter 55 of the Statutes of 1993) is amended to read:

3680-101-516—For local assistance, Department of Boating and Waterways, payable from the Harbors and Watercraft Revolving Fund		12,363,000
Schedule:		
(a) 10-Boating Facilities	9,163,000	
Launching Facility Grants	(3,363,000)	
1) Boyd Pump	(171,000)	
2) Lake Casitas	(75,000)	
3) Channel Islands Harbor	(200,000)	
4) Clearlake Oaks	(400,000)	
5) Donner Lake	(135,000)	
6) Floating Restrooms	(159,000)	
7) Klamath Townsite	(170,000)	
8) Long Beach Marina	(500,000)	
9) Morro Bay	(295,000)	
10) Pier 54	(295,000)	
11) Ramp Repairs, Extensions	(200,000)	
12) San Antonio Lake	(50,000)	
13) Santa Clara Pt	(252,000)	
14) Scotts Flat Reservoir	(43,000)	
15) Ventura Harbor	(206,000)	
16) Woodson Bridge	(41,000)	
17) Woodward Reservoir	(71,000)	
18) Yosemite Lake	(100,000)	
Small Craft Harbor Loans	(4,800,000)	
1) Emergency Loans	(200,000)	
2) Jack London Square Marina	(500,000)	
3) Martinez Marina	(100,000)	
4) Pillar Point Harbor	(1,000,000)	
5) Marina del Rey/ Playa Vista	(600,000)	
6) San Leandro Marina	(500,000)	
7) Santa Cruz Harbor	(500,000)	

8) Sausalito Yacht Harbor ..... (1,200,000)
9) Woodley Island Marina ..... (200,000)
Private Marina Loans ..... (1,000,000)
(b) 20-Boating Operations 4,050,000
1) Boating Safety and Enforcement ..... (3,200,000)
2) Boating Safety Financial Assistance (850,000)
(c) Amount payable from the Federal Trust Fund (Item 3680-101-890) .. −850,000

Provisions:

1. Of the funds appropriated in category (b), $3,200,000 is for boating safety and enforcement programs pursuant to Section 663.7 of the Harbors and Navigation Code.
2. Of the funds appropriated in category (b), $850,000 for Boating Safety Financial Assistance shall be expended in accordance with federal law.

SEC. 2. Item 3680-301-516 of Section 2 of the Budget Act of 1993 (Chapter 55 of the Statutes of 1993) is amended to read:

3680-301-516—For capital outlay, Department of Boating and Waterways, payable from the Harbors and Watercraft Revolving Fund 1,120,000
Schedule:
(2) 50.99.010-Project Planning 5,000
(3) 50.99.020-Minor Projects 1,115,000

SEC. 3. Item 3760-301-164 of Section 2 of the Budget Act of 1993 (Chapter 55 of the Statutes of 1993) is amended to read:

3760-301-164—For capital outlay, State Coastal Conservancy, payable from the Outer Continental Shelf Land Act Section 8(g) Revenue Fund 2,000,000
Schedule:
(2) 80.93.025 Coastal Resource Development 2,000,000

Provisions:

1. The State Coastal Conservancy shall not enter into a grant contract with a nonprofit organization or local government for property acquisi-

tion which provides for either of the following:

a. A reversionary interest to the state, unless the grant contract specifies that the property shall not revert to the state without review and approval by the conservancy and the State Public Works Board.

b. A state leasehold interest in property acquired by a nonstate public agency with conservancy grant funds, unless the lease terms are approved by the Director of General Services. Except as otherwise specified above in this provision, the expenditures of funds for grants to public agencies and nonprofit organizations shall be exempt from State Public Works Board review.

3. The amount appropriated in this item is available for expenditure for either capital outlay or local assistance.

4. The funds appropriated by this item shall be used to develop beneficial uses of material dredged from San Francisco Bay, including design, acquisition, and development of the Sonoma Baylands Marsh restoration and Leonard Ranch Rehandling Facility projects, and associated project mitigation and environmental enhancement.

CHAPTER 1187

An act to amend Sections 680.280 and 700.020 of the Code of Civil Procedure, to amend Sections 7510, 24350, 24353, 27001, 27557, and 29820 of, to amend and renumber Section 29826 of, to add Section 29826 to, to repeal Section 29827 of, and to repeal and add Sections 29821, 29822, 29823, 29824, and 29825 of, the Government Code, and to amend Sections 19, 254.5, 1256, 3692, 3698.5, and 4946 of, to add Sections 2910.1 and 7283 to, to repeal Sections 2910 and 2913.5 of, and to repeal and add Section 2913 of, the Revenue and Taxation Code, relating to local government finance.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 680.280 of the Code of Civil Procedure is amended to read:

680.280. "Person" includes a natural person, a corporation, a partnership or other unincorporated association, a general partner of a partnership, and a public entity.

SEC. 1.5. Section 700.020 of the Code of Civil Procedure is amended to read:

700.020. (a) To levy upon (1) growing crops, (2) timber to be cut, or (3) minerals or the like (including oil and gas) to be extracted or accounts receivable resulting from the sale thereof at the wellhead or minehead, the levying officer shall record with the recorder of the county where those crops, timber, or minerals or the like are located a copy of the writ of execution and a notice of levy that describes the property levied upon and states that the judgment debtor's interest in the described property has been levied upon and describes the real property where the crops, timber, or minerals or the like are located. If the judgment debtor's interest in the crops, timber, minerals or the like, or if the real property where the crops, timber, or minerals or the like are located, stands upon the records of the county in the name of a person other than the judgment debtor, the notice of levy shall identify the third person and the recorder shall index the copy of the writ and notice of levy in the names of both the judgment debtor and the third person.

(b) At the time of levy or promptly thereafter, the levying officer shall serve a copy of the writ and a notice of levy personally or by mail on the following persons:

(1) Any third person in whose name the judgment debtor's interest in the crops, timber, minerals or the like stands upon the records of the county and any third person in whose name the real property stands upon the records of the county. If service on the third person is by mail, it shall be sent to the person at the address for the person, if any, shown by the records of the office of the assessor of the county where the real property is located or, if no address is so shown, to the person at the address used by the county recorder for the return of the instrument creating the interest of the third person in the property.

(2) Any secured party who has filed a financing statement with respect to the crops, timber, or minerals or the like or the accounts receivable, prior to the date of levy on the property.

(c) At the time of levy or promptly thereafter, the levying officer shall serve a copy of the writ and a notice of levy on one occupant of the real property where the crops, timber, or minerals or the like are located. Service on the occupant shall be made by leaving the copy of the writ and a notice of levy with the occupant personally or, in the occupant's absence, with a person of suitable age and discretion found upon the real property when service is attempted who is either an employee or agent of the occupant or a member of the occupant's household. If he or she is unable to serve an occupant or suitable person at the time service is attempted, the levying officer shall post the copy of the writ and the notice of levy in a conspicuous place on the real property. However, the posting requirement of the

preceding sentence shall not apply where the levy is made upon minerals or the like (but not including oil or gas) and no dwelling is located on the real property. If the real property described in the notice of levy consists of more than one distinct lot, parcel, or governmental subdivision and any of the lots, parcels, or governmental subdivisions lies with relation to any of the others so as to form one or more continuous, unbroken tracts, only one service or posting need be made under this subdivision as to each continuous, unbroken tract.

SEC. 2. Section 7510 of the Government Code is amended to read:

7510. (a) (1) Except as provided in subdivision (b), a public retirement system, which has invested assets in real property and improvements thereon for business or residential purposes for the production of income, shall pay annually to the city or county, in whose jurisdiction the real property is located and has been removed from the secured roll, a fee for general governmental services equal to the difference between the amount that would have accrued as real property secured taxes and the amount of possessory interest unsecured taxes paid for that property. The governing bodies of local entities may adopt ordinances and regulations authorizing retirement systems to invest assets in real property subject to the foregoing requirements.

(2) This subdivision shall not apply to any retirement system which is established by a local governmental entity if that entity is presently authorized by statute or ordinance to invest retirement assets in real property.

(3) This subdivision shall not apply to property owned by any state public retirement system.

(b) (1) Whenever a state public retirement system, which has invested assets in real property and improvements thereon for business or residential purposes for the production of income, leases the property, the lease shall provide, pursuant to Section 107.6 of the Revenue and Taxation Code, that the lessee's possessory interest may be subject to property taxation and that the party in whom the possessory interest is vested may be subject to the payment of property taxes levied on that interest. The lease shall also provide that the full cash value, as defined in Sections 110 and 110.1 of the Revenue and Taxation Code, of the possessory interest upon which property taxes will be based shall equal the greater of (A) the full cash value of the possessory interest, or (B), if the lessee has leased less than all of the property, the lessee's allocable share of the full cash value of the property that would have been enrolled if the property had been subject to property tax upon acquisition by the state public retirement system. The lessee's allocable share shall be the lessee's leasable square feet divided by the total leasable square feet of the property.

(2) Except as provided in this subdivision, the property shall be assessed and its taxes computed and collected in the same manner

as privately owned property. The lessee's possessory interest shall be placed on the unsecured roll and the tax on the possessory interest shall be subject to the collection procedures for unsecured property taxes.

(3) An investment by a state public retirement system in a legal entity that invests assets in real property and improvements thereon shall not constitute an investment by the state public retirement system of assets in real property and improvements thereon. For purposes of this paragraph, "legal entity" includes, but is not limited to, partnership, joint venture, corporation, trust, or association. When a state public retirement system invests in a legal entity, the state public retirement system shall be deemed to be a person for the purpose of determining a change in ownership under Section 64 of the Revenue and Taxation Code.

(4) Notwithstanding any other provision of law, fees charged pursuant to this section and collected prior to July 1, 1992, shall be deemed valid and not refundable under any circumstance. Notwithstanding any other provision of law, fees, interest and penalties, if any, asserted to be due pursuant to this section that were not charged or collected prior to July 1, 1992, shall be deemed invalid and not collectable under any circumstance.

(5) This subdivision shall apply to the assessment, computation, and collection of taxes for the fiscal year beginning on July 1, 1992, and each fiscal year thereafter. For the 1992–93 and 1993–94 fiscal years, in the case where a lessee's possessory interest existed for less than the full fiscal year for which the tax was levied, the amount of tax shall be prorated in accordance with the number of months for which the lessee's interest existed.

SEC. 2.5. Section 24350 of the Government Code is amended to read:

24350. Each salaried officer of a county or judicial district shall charge and collect for the use of his or her county and pay into the county treasury on or before the fifth day of each month the fees allowed by law in all cases, except those or a percentage of them allowed him or her, and those which are a charge against the county. No salaried officer who collects fees pursuant to this section shall be required to accept coin in payment of those fees.

SEC. 3. Section 24353 of the Government Code is amended to read:

24353. Each officer of a county or judicial district authorized to collect money shall pay into the county treasury all money collected by him or her or under his or her control that is payable into the treasury in the form and at the time the auditor requires. No officer who collects money as described in this section shall be required to accept payment in coin.

SEC. 4. Section 27001 of the Government Code is amended to read:

27001. The treasurer shall file and keep the certificates of the auditor delivered to him or her when money is paid into the treasury.

Notwithstanding Sections 26201, 26202 and 26205, the treasurer may destroy any certificate pursuant to this section if all of the following conditions are complied with:

(a) The record, paper, or document is photographed, microphotographed, or reproduced on film of a type approved for permanent photographic records by the National Bureau of Standards.

(b) The device used to reproduce the record, paper, or document on film is one that accurately reproduces the original thereof in all details.

(c) The photographs, microphotographs, or other reproductions on film are placed in conveniently accessible files and provision is made for preserving, examining, and using the same.

SEC. 4.5. Section 27557 of the Government Code is amended to read:

27557. The surveyor shall plat, trace, blueprint, or otherwise make all county, road, district, and other maps and, at the request of the assessor, make all assessors' block-books for the county.

SEC. 5. Section 29820 of the Government Code is amended to read:

29820. When a warrant is presented for payment, if there is money in the fund for that purpose, the treasurer shall pay it by any of the following methods:

(a) By stamping thereon or perforating therein the word "Paid" and the date of payment.

(b) In accordance with those practices with respect to form, issuance, delivery, endorsement, and payment as approved by the governing board pursuant to Section 53910.

(c) By accepting the paid data per the treasurer's bank.

At the option of the treasurer, warrants may be payable at the treasurer's office or at any bank at which money of the county is deposited.

SEC. 6. Section 29821 of the Government Code is repealed.

SEC. 7. Section 29821 is added to the Government Code, to read:

29821. Whenever an issuing officer draws a warrant upon the fund in an amount that exceeds the balance of the fund and the issuing officer determines that the warrant requires registration, the issuing officer shall, prior to the issuance of that warrant, present it to the treasurer for registration pursuant to Section 29823.

SEC. 8. Section 29822 of the Government Code is repealed.

SEC. 9. Section 29822 is added to the Government Code, to read:

29822. The governing board of any local agency may, by the affirmative vote of a majority of its members, adopt a resolution authorizing the issuing of registered warrants. Any resolution adopted pursuant to this section shall state all of the following:

(a) The reason for issuing registered warrants.

(b) The treasurer's fund number or numbers upon which the warrants are to be drawn.

(c) The maturity date of the registered warrants where the

warrants are issued for a period of fixed duration.

Any resolution adopted pursuant to this section shall be submitted to the issuing officer prior to the time any claims or orders are presented.

All approved local agency claims or orders drawn against a fund or funds subject to the issuance of registered warrants authorized pursuant to this section shall be clearly stamped with the following: "Submitted for Registered Warrant Pursuant to Board Authorization No. _____, dated _____."

Each warrant issued pursuant to a resolution adopted pursuant to this section shall, prior to issuance, be presented to the treasurer for registration pursuant to Section 29823.

SEC. 10. Section 29823 of the Government Code is repealed.

SEC. 11. Section 29823 is added to the Government Code, to read:

29823. The treasurer shall register any warrant presented to him or her pursuant to Section 29821 or 29822 by endorsing upon the back of that warrant all of the following:

(a) The date the warrant was presented to him or her.

(b) That the warrant is not paid for lack of funds.

(c) That the warrant bears interest at the rate fixed by law from the date of registration to and including the date of maturity, or the date of the treasurer's first notice pursuant to subdivision (b) of Section 29826.

Any warrant registered pursuant to this section shall be returned to the issuing officer for disbursement.

SEC. 12. Section 29824 of the Government Code is repealed.

SEC. 13. Section 29824 is added to the Government Code, to read:

29824. (a) The rate of interest payable on a registered warrant shall be determined by a ratesetting committee upon the affirmative vote of a majority of its members. A ratesetting committee shall consist of the auditor, the treasurer, and one representative of the issuing local agency, and shall in its discretion set a rate of interest payable on registered warrants that is consistent with sound business principles.

(b) Interest on registered warrants shall be paid on the basis of actual days and a 365-day year, and shall accrue to the holder of the warrant on the date of redemption. A registered warrant shall cease to bear interest on any maturity date endorsed on its face, if on that date unapplied money is available for its payment, or on the date of the treasurer's notice pursuant to subdivision (b) of Section 29826.

SEC. 14. Section 29825 of the Government Code is repealed.

SEC. 15. Section 29825 is added to the Government Code, to read:

29825. The treasurer shall maintain a separate register for registered warrants that records for each registered warrant all of the following information:

(a) The date on which the warrant is presented.

(b) The rate of interest payable on that warrant.

(c) Any specified maturity date of that warrant.

SEC. 16. Section 29826 of the Government Code is amended and

renumbered to read:

29827. When the treasurer pays any warrant upon which any interest is due, he or she shall note on the warrant the amount of interest paid and enter on his or her account the amount of the interest distinct from the principal.

SEC. 17. Section 29826 is added to the Government Code, to read:

29826. (a) Registered warrants shall be paid out of money in the fund that may be properly applied to those warrants according to the order in which each warrant was presented to the treasurer for registration. Upon receipt of money into the fund, the treasurer shall set apart so much of that money that may be properly applied to the payment of registered warrants as is necessary for the payment of principal and interest.

(b) When there is sufficient money in the fund to pay the warrants drawing interest, the treasurer shall give notice to the registered warrantholder by mail, or by published notice in a newspaper of general circulation published in the county, or if none is published therein, by written notice posted in an appropriate public notice location in the courthouse. When advertising warrants in a newspaper, the treasurer shall not publish the warrants in detail, but shall give notice only that certain warrant numbers or series of numbers stated in the notice are payable. From the date of mailing, or first publication or posting of the notice, the warrants cease to draw interest.

(c) A registered warrant that bears a maturity date shall be paid by the county treasurer upon that date out of moneys then available. However, if on the maturity date endorsed on a registered warrant, there is no money available for its payment, the registered warrant shall continue to bear interest and shall become payable in the same manner as registered warrants not bearing maturity dates.

(d) If a registered warrant is not presented for payment within 60 days from the date of the notice required by subdivision (b), the moneys set aside for its payment shall be applied by the treasurer to the payment of unpaid warrants next in order of registry. When finally presented, any properly endorsed warrant so bypassed shall be paid by the treasurer when sufficient funds that may be properly applied to the payment of registered warrants are next available.

SEC. 18. Section 29827 of the Government Code is repealed.

SEC. 19. Section 19 of the Revenue and Taxation Code is amended to read:

19. "Person" includes any person, firm, partnership, general partner of a partnership, association, corporation, company, syndicate, estate, trust, business trust, or organization of any kind.

SEC. 19.3. Section 254.5 of the Revenue and Taxation Code is amended to read:

254.5. (a) Affidavits for the welfare exemption and the veterans' organization exemption shall be filed in duplicate on or before March 15 of each year with the assessor. Affidavits of organizations filing for the first time shall be accompanied by duplicate certified copies of

the financial statements of the owner and operator. Thereafter, financial statements shall be submitted only if requested in writing by either the assessor or the board. Copies of the affidavits and financial statements shall be forwarded not later than April 1 by the assessor with his or her recommendations for approval or denial to the board which shall review all such affidavits and statements and may institute an independent audit or verification of the operations of the owner and operator to ascertain whether both the owner and operator meet the requirements of Section 214 of the Revenue and Taxation Code. In this connection the board shall consider, among other matters, whether:

(1) The services and expenses of the owner or operator (including salaries) are excessive, based upon like services and salaries in comparable public institutions;

(2) The operations of the owner or operator, either directly or indirectly, materially enhance the private gain of any individual or individuals;

(3) Any capital investment of the owner or operator for expansion of physical plant is justified by the contemplated return thereon, and required to serve the interests of the community.

(4) The property on which exemption is claimed is used for the actual operation of an exempt activity and does not exceed an amount of property reasonably necessary to the accomplishment of the exempt purpose.

(b) The board shall make a finding as to the eligibility of each applicant and the applicant's property and shall forward its finding to the assessor concerned. In a case where the board conducts a hearing with respect to the eligibility of the applicant and the applicant's property, the finding shall be forwarded to the assessor concerned within 30 days after the decision is made by the board following the hearing. The assessor may deny the claim of an applicant the board finds eligible but may not grant the claim of an applicant the board finds ineligible.

(c) Notwithstanding subdivision (a), an applicant, granted a welfare exemption and owning any property exempted pursuant to Section 231, shall not be required to reapply for the welfare exemption in any subsequent year in which there has been no transfer of, or other change in title to, the exempted property and the property is used exclusively by a governmental entity for its interest and benefit. The applicant shall notify the assessor on or before March 15 if, on or before the preceding lien date, the applicant became ineligible for the welfare exemption or if, on or before that lien date, the property was no longer owned by the applicant or otherwise failed to meet all requirements for the welfare exemption.

Prior to the lien date, the assessor shall annually mail a notice to every applicant relieved of the requirement of filing an annual application by this subdivision.

The notice shall be in a form and contain that information which

the board may prescribe, and shall set forth the circumstances under which the property may no longer be eligible for exemption and advise the applicant of the duty to inform the assessor if the property is no longer eligible for exemption.

The notice shall include a card which is to be returned to the assessor by any applicant desiring to maintain eligibility for the welfare exemption under Section 231. The card shall be in the following form:

To all persons who have received a welfare exemption under Section 231 of the Revenue and Taxation Code for the _____ fiscal year.

Question: Will the property to which the exemption applies in the _____ fiscal year continue to be used exclusively by government for its interest and benefit in the _____ fiscal year?

YES _____ NO _____

Signature: _____
Title: _____

Failure to return this card does not of itself constitute a waiver of exemption as called for by the California Constitution, but may result in onsite inspection to verify exempt activity.

(d) Upon any indication that a welfare exemption has been incorrectly granted, the assessor shall redetermine eligibility for the exemption. If the assessor determines that the property, or any portion thereof, is no longer eligible for the exemption, he or she shall immediately cancel the exemption on so much of the property as is no longer eligible for the exemption.

(e) If a welfare exemption has been incorrectly allowed, an escape assessment as provided by Article 4 (commencing with Section 531) of Chapter 3 in the amount of the exemption, with interest as provided in Section 506, shall be made, and a penalty shall be assessed for any failure to notify the assessor as required by this section in an amount equaling 10 percent of the escape assessment, but in no event exceeding two hundred fifty dollars ($250).

SEC. 19.5. Section 1256 of the Revenue and Taxation Code is amended to read:

1256. At the request of the assessor, the board of supervisors shall authorize and direct the assessor to prepare, or to supervise the preparation of, maps and block-books as may be needed for the assessor's office to meet the requirements of the state board with respect thereto. All costs incurred in connection therewith shall be a charge against the county general fund, payable in the same manner as other county charges. This procedure shall be in addition to any other procedure relating to matters as may otherwise be

provided by law.

SEC. 20. Section 2910 of the Revenue and Taxation Code is repealed.

SEC. 21. Section 2910.1 is added to the Revenue and Taxation Code, to read:

2910.1. The tax collector may, no later than 30 days prior to the date on which taxes are delinquent and as soon as reasonably possible after receipt of the extended assessment roll, mail a tax bill for every assessment on the unsecured roll on which taxes are due.

SEC. 22. Section 2913 of the Revenue and Taxation Code is repealed.

SEC. 23. Section 2913 is added to the Revenue and Taxation Code, to read:

2913. The tax collector shall record a payment of taxes on the unsecured roll by either of the following methods:

(a) By marking the fact and date of payment on the unsecured roll opposite the tax to which the payment relates.

(b) By recording the fact and date of payment on a machine prepared list or in the form of an electronic data processing record.

SEC. 24. Section 2913.5 of the Revenue and Taxation Code is repealed.

SEC. 25. Section 3692 of the Revenue and Taxation Code is amended to read:

3692. (a) The tax collector shall attempt to sell tax-defaulted property as provided in this chapter within four years of the time that the property becomes subject to sale for nonpayment of taxes unless by other provisions of law the property is not subject to sale. If there are no acceptable bids at the attempted sale, the tax collector shall with the approval of the Controller attempt to sell the property at intervals of no more than six years until the property is sold.

(b) When oil, gas, or mineral rights are subject to sale for nonpayment of taxes, the tax collector may offer the interest at minimum bid to the holders of outstanding interests where the interest subject to sale is a partial interest or, where the interest subject to sale is a complete and undivided interest, to the owner or owners of the property to which the oil, gas, or mineral rights are appurtenant.

(c) When parcels that are rendered unusable by their size, location or other conditions are subject to sale for nonpayment of taxes, the tax collector may offer the parcel at a minimum bid to owners of contiguous parcels, or may require that an unusable parcel be joined with a contiguous parcel as a condition of sale.

(d) Sealed bid sale procedures shall be used when offers are made pursuant to subdivision (b) or (c), and the property shall be sold to the highest eligible bidder. The offers shall remain in effect for 30 days or until notice is given pursuant to Section 3702, whichever is later.

SEC. 26. Section 3698.5 of the Revenue and Taxation Code is amended to read:

3698.5. (a) The minimum price at which property may be offered for sale pursuant to this chapter shall be an amount not less than the total amount necessary to redeem, plus costs. For purposes of this subdivision:

(1) The "total amount necessary to redeem" is the sum of the following:

(A) The amount of defaulted taxes.

(B) Delinquent penalties and costs.

(C) Redemption penalties.

(D) A redemption fee.

(2) "Costs" are those amounts described in subdivisions (a) and (b) of Section 4112, Sections 4672, 4672.1, 4672.2, 4673, and subdivision (b) of Section 4673.1.

(b) This section shall not apply to property or interests which qualify for sale in accordance with the provisions of subdivisions (a) and (b) of Section 3692.

(c) Where property or property interests have been offered for sale at least once and no acceptable bids therefor have been received, the tax collector may, in his or her discretion and with the approval of the board of supervisors, offer that property or those interests at the next scheduled sale at a minimum price that the tax collector deems appropriate.

SEC. 27. Section 4946 of the Revenue and Taxation Code is amended to read:

4946. All or any portion of any uncollected tax, penalty, or costs, heretofore or hereafter levied, may on satisfactory proof submitted by the tax collector be canceled by the auditor on order of the board of supervisors upon a showing that the collection of the delinquent tax can not be enforced because of any errors in description, assessment, equalization, levy, or any other proceeding. If all or any portion of the property was taxable for the year or years for which the cancellation is made, the clerk shall send a notice to the last assessee of the property respecting the cancellation. A similar notice shall be sent to the last assessee, except that the grounds of cancellation need not be stated, in the event that any tax, penalty, or costs, or any portion thereof, is ordered canceled or held void or ordered refunded by a final judgment of a court of competent jurisdiction.

SEC. 28. Section 7283 is added to the Revenue and Taxation Code, to read:

7283. A board of supervisors may, by ordinance or resolution, establish procedures for the collection of delinquent amounts of any tax levied pursuant to this chapter.

SEC. 29. It is the intent of the Legislature that the amendment made to Section 7510 of the Government Code by Section 2 of this act apply to the assessment, computation, and collection of property taxes levied for the 1992–93 fiscal year, to address the case in which a lessee's possessory interest existed on the March 1 lien date, but did not exist during, or ceased to exist prior to the end of, that fiscal year.

SEC. 30. The amendments made by Chapter 1180 of the Statutes of 1992 to subdivision (g) of Section 214 of the Revenue and Taxation Code, relating to veterans' organizations, shall be operative with respect to taxes levied for the 1989–90 fiscal year and each fiscal year thereafter.

SEC. 31. 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 1188

An act to amend Section 7137 of, and to add Section 7135.1 to, the Business and Professions Code, relating to contractors, and making an appropriation therefor.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 7135.1 is added to the Business and Professions Code, to read:

7135.1. It is the intent of the Legislature that, each fiscal year the board shall designate, if appropriated in the Budget Act and to the extent that it does not conflict with the control language of the Budget Act, no less than 20 percent of the annual amount collected as a result of the fees increased by statutes enacted during the 1993 portion of the 1993–94 Regular Session to be used to enforce the provision of this chapter relative to unlicensed activity.

SEC. 2. Section 7137 of the Business and Professions Code is amended to read:

7137. The amount of the fees prescribed by this chapter shall be fixed by the board according to the following schedule:

(a) The application fee for an original license in a single classification shall be two hundred fifty dollars ($250).

The application fee for each additional classification applied for in connection with an original license shall be fifty dollars ($50).

The application fee for each additional classification pursuant to Section 7059 shall be fifty dollars ($50).

The application fee to replace a responsible managing officer or employee pursuant to Section 7068.2 shall be fifty dollars ($50).

(b) The fee for rescheduling an examination for an applicant who has applied for an original license, additional classification, a change of responsible managing officer or responsible managing employee, or for an asbestos certification or hazardous substance removal certification, shall be fifty dollars ($50).

(c) The initial license fee for an active or inactive license shall be one hundred fifty dollars ($150).

(d) The renewal fee for an active license shall be three hundred dollars ($300).

The renewal fee for an inactive license shall be one hundred fifty dollars ($150).

(e) The delinquency fee is an amount equal to 50 percent of the renewal fee, but not more than twenty-five dollars ($25).

(f) The registration fee for a home improvement salesperson shall be fifty dollars ($50).

(g) The renewal fee for a home improvement salesperson registration shall be seventy-five dollars ($75).

(h) The application fee for an asbestos certification examination shall be fifty dollars ($50).

(i) The application fee for a hazardous substance removal or remedial action certification examination shall be fifty dollars ($50).

SEC. 3. The sum of one million five hundred seventy thousand dollars ($1,570,000) is appropriated from the Contractors' License Fund in augmentation of Item 1230-001-735, Budget Act of 1993, to restore the unallocated reduction that was proposed in the 1994–95 Governor's Budget due to insufficient fund reserves.

CHAPTER 1189

An act to amend Sections 6489, 6490, and 7201 of, and to add Sections 6489.3 and 6555 to, the Elections Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 6489 of the Elections Code is amended to read:

6489. For the purposes of this article, "nomination documents" means a statement of intention and a declaration of candidacy.

SEC. 2. Section 6489.3 is added to the Elections Code, to read:

6489.3. (a) Each candidate for a party nomination for the office of State Senator or Member of the Assembly, any state constitutional office, or Insurance Commissioner at the direct primary election

shall file a written and signed statement of his or her intention to become a candidate for his or her party's nomination for that office. The statement of intention shall be filed with either the Secretary of State or the elections official of the county in which the candidate is a resident. The statement of intention shall be filed, on a form to be supplied by the county elections official, not more than 14 nor less than five days prior to the first day on which a declaration of candidacy may be presented for filing. However, if the incumbent fails to file a statement of intention by the end of that period, persons other than the incumbent may file statements of intention no later than the first day for filing declarations of candidacy. The statement of intention provided for in this section shall be in substantially the following form:

I hereby declare my intention to become a

candidate for the _____

(Name of political party)

Party's nomination for the office of

_____

(Name of office and district, if any)

at the direct primary election.

_____

(Signature of candidate)

_____

(Address of candidate)

(b) No person may be a candidate nor have his or her name printed upon any ballot as a candidate for a party nomination for the office of State Senator or Member of the Assembly, any state constitutional office, or Insurance Commissioner at the direct primary election unless he or she has filed the statement of intention provided for in this section. However, if the incumbent of the office who is affiliated with any qualified political party files a statement of intention, but for any reason fails to qualify for nomination for the office by the last day prescribed for the filing of a declaration of candidacy an additional five days shall be allowed for the filing of declaration of candidacy for the office, and any person other than the incumbent if otherwise qualified, may file a declaration of candidacy for the office during the extended period, notwithstanding that he or she has not filed a written and signed statement of intention to become a candidate for the office as provided in subdivision (a).

SEC. 3. Section 6490 of the Elections Code is amended to read:

6490. (a) No candidate's name shall be printed on the ballot to be used at the direct primary unless the following nomination documents are delivered for filing to the county elections official:

(1) Declaration of candidacy pursuant to Section 6491.

(2) Statement of intention, if required, pursuant to Section 6489.3.

(b) The forms shall first be available on the 113th day prior to the direct primary election and shall be delivered not later than 5 p.m. on the 88th day prior to the direct primary.

(c) Upon the receipt of an executed nomination document, the county elections official shall give the person delivering the document a receipt, properly dated, indicating that the document was delivered to the county elections official.

(d) Notwithstanding Section 6490.5, upon request of a candidate, the county elections official shall provide the candidate with a declaration of candidacy. The county elections official shall not require a candidate to sign, file, or sign and file, a declaration of candidacy as a condition of receiving nomination documents.

SEC. 4. Section 6555 is added to the Elections Code, to read:

6555. (a) Notwithstanding any other provision of this article, a candidate may submit a petition containing signatures of registered voters in lieu of a filing fee as follows:

(1) For the office of California State Assembly, 1,500 signatures.

(2) For the office of California State Senate and the United States House of Representatives, 3,000 signatures.

(3) For candidates running for statewide office, 10,000 signatures.

(4) For all other offices for which a filing fee is required, if the number of registered voters in the district in which he or she seeks nomination is 2,000 or more, a candidate may submit a petition containing four signatures of registered voters for each dollar of the filing fee, or 10 percent of the total of registered voters in the district in which he or she seeks nomination, whichever is less.

(5) For all other offices for which a filing fee is required, if the number of registered voters in the district in which he or she seeks nomination is less than 2,000, a candidate may submit a petition containing four signatures of registered voters for each dollar of the filing fee, or 20 percent of the total of registered voters in the district in which he or she seeks nomination, whichever is less.

(6) Notwithstanding any other provision of this section, a candidate seeking the nomination of a qualified party with whom he or she is registered, the registered voters of which who were eligible to vote at the last statewide election constituted less than 5 percent of all registered voters eligible to vote at the last statewide election, may submit a petition containing signatures of 10 percent of the registered voters of that party in the district in which he or she seeks nomination, or 150 signatures, whichever is less.

(7) A voter may sign both a candidate's nomination papers and his or her in-lieu-filing-fee petition. However, if signatures appearing on the documents are counted towards both the nomination paper and the in-lieu-filing-fee petition signature requirements, a person may only sign one of the documents.

(b) The Secretary of State or an elections official shall furnish to each candidate, upon request, and without charge therefor, forms for

securing signatures. The number of forms which the elections official shall furnish a candidate shall be a quantity which provides the candidates with spaces for signatures sufficient in number to equal the number of signatures which the candidate is required to secure pursuant to subdivision (a) if the candidate desires that number of forms. However, the elections official may, rather than provide the candidate with the number of forms set forth in the preceding sentence, or, upon the request of a candidate, provide the candidate with a master form, which may be duplicated by the candidate at the candidate's expense for the purpose of circulating additional petitions. The Secretary of State shall provide the master form. The elections official may provide candidates a form other than the master form provided by the Secretary of State. However, that form shall meet all statutory requirements, and the elections official shall also make available and accept the master form provided by the Secretary of State. All forms shall be made available commencing 45 days before the first day for circulating nomination papers. However, in cases of vacancies for which a special election is authorized or required to be held to fill the vacancy, and where the prescribed nomination period would commence less than 45 days after the creation of the vacancy, the forms shall be made available within five working days after the creation of the vacancy. No other form except the form furnished by the Secretary of State or the elections official or forms duplicated from a master form shall be used to secure signatures. Each petition section shall bear an affidavit signed by the circulator, in substantially the same form as set forth in Section 6494. The substitution of signatures for fees shall be subject to the following provisions:

(1) Any registered voter may sign an in-lieu-filing-fee petition for any candidate for whom he or she is eligible to vote.

(2) If a voter signs more candidates' petitions than there are offices to be filled, the voter's signatures shall be valid only on those petitions which, taken in the order they were filed, do not exceed the number of offices to be filled.

(3) In-lieu-filing-fee petitions shall be filed at least 15 days prior to the close of the nomination period. Upon receipt of the minimum number of in-lieu-filing-fee signatures required, or a sufficient combination of signatures and pro rata filing fee, the elections official shall issue nomination papers provisionally. Within 10 days after receipt of a petition, the elections official shall notify the candidate of any deficiency. The candidate shall then, prior to the close of the nomination period, either submit a supplemental petition, or pay a pro rata portion of the filing fee, to cover the deficiency.

(4) If the petition is circulated for an office in more than one county, the candidate shall submit the signatures to the elections official in the county in which the petition was circulated. The elections official shall at least two days after verifying the signatures on the petition, notify the Secretary of State of the total number of valid signatures. If the number of signatures is insufficient, the

Secretary of State shall notify the candidate and the elections officials of the fact. The candidate may submit the necessary number of valid signatures at any time prior to the close of the period for circulating nomination papers. Each circulator of an in-lieu-filing-fee petition shall be a registered voter of the district or political subdivision in which the candidate is to be voted on. The circulator shall serve within the county in which he or she resides.

(5) Each candidate may submit a greater number of signatures to allow for subsequent losses due to invalidity of some signatures. The elections official shall not be required to determine the validity of a greater number of signatures than that required by this section.

(c) For the purposes of this section, the requisite number of signatures shall be computed from the latest registration figures forwarded to the Secretary of State pursuant to Section 607 prior to the first day on which petitions are available.

(d) All valid signatures obtained pursuant to this section shall be counted towards the number of voters required to sign a nomination paper in accordance with Section 6494.1 or 6834.1.

SEC. 5. Section 7201 of the Elections Code is amended to read:

7201. A special primary election shall be held in the district in which the vacancy occurred on the eighth Tuesday or, if the eighth Tuesday is the day of or the day following a state holiday, the ninth Tuesday preceding the day of the special general election at which the vacancy is to be filled. Candidates at the primary election shall be nominated in the manner set forth in Chapter 5 (commencing with Section 6400), except that nomination papers shall not be circulated more than 63 days before the primary election, shall be left with the county elections official for examination not less than 43 days before the primary election, and shall be filed with the Secretary of State not less than 39 days before the primary election.

Notwithstanding Section 1002, applications for absent voter ballots may be submitted not more than 25 days before the primary election, except that Section 1002 shall apply if the special election or special primary election is consolidated with a statewide election. Applications received by the elections official prior to the 25th day shall not be returned to the sender, but shall be held by the elections official and processed by him or her following the 25th day prior to the election in the same manner as if received at that time.

SEC. 6. Notwithstanding any other provision of law, if AB 1173 is chaptered and takes effect on or before January 1, 1994, whether AB 1173 is chaptered prior to, or subsequent to, this act, any section of AB 1173 that adds Section 6555 to the Elections Code shall prevail over Section 4 of this act, and Section 4 of this act shall not become operative.

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.

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 changes in the elections procedures proposed by this bill be in effect at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1190

An act to amend Sections 8670.48, 8670.48.5, 8670.49, 8670.51.1, and 8670.59 of, and to add Section 8670.17.1 to, the Government Code, to amend Section 8750 of the Public Resources Code, and to amend Sections 46012, 46054, and 46653 of the Revenue and Taxation Code, relating to oil spills, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 8670.17.1 is added to the Government Code, to read:

8670.17.1. The administrator may, for purposes of efficiency, safety, or implementation consistency, provide for services to vessels, ports, and port users which are necessary to achieve requirements mandated pursuant to this article. The administrator may establish or authorize reimbursement for those services which do not exceed the reasonable costs incurred in implementing and administering the service.

SEC. 2. Section 8670.48 of the Government Code is amended to read:

8670.48. (a) (1) A uniform oil spill response fee in an amount not exceeding twenty-five cents ($0.25) for each barrel of petroleum products, as set by the administrator pursuant to subdivision (f), shall be imposed upon every person owning petroleum products at the time the petroleum products are received at a marine terminal within this state by means of a vessel from a point of origin outside this state. The fee shall be remitted to the State Board of Equalization by the terminal operator on the 25th day of each month based upon

the number of barrels of petroleum products received during the preceding month.

(2) Every owner of petroleum products is liable for the fee until it has been paid to the state, except that payment to a marine terminal operator registered under this chapter is sufficient to relieve the owner from further liability for the fee.

(b) Every operator of a pipeline shall also pay a uniform oil spill response fee in an amount not exceeding twenty-five cents ($0.25) for each barrel of petroleum products, as set by the administrator pursuant to subdivision (f), transported into the state by means of a pipeline operating across, under, or through the marine waters of the state. The fee shall be paid on the 25th day of each month based upon the number of barrels of petroleum products so transported into the state during the preceding month.

(c) (1) Every operator of a refinery shall pay a uniform oil spill response fee in an amount not exceeding twenty-five cents ($0.25) for each barrel of crude oil, as set by the administrator pursuant to subdivision (f), received at a refinery within the state. The fee shall be paid on the 25th day of each month based upon the number of barrels of crude oil so received during the preceding month.

(2) The fee shall not be imposed by a refiner, or a person or entity acting as an agent for a refiner, on crude oil produced by an independent crude oil producer as defined in paragraph (3). The board shall not identify a company as exempt from the fee requirements of this section if that company was reorganized, sold, or otherwise modified with the intent of circumventing the requirements of this section.

(3) For purposes of this chapter, "independent crude oil producer" means any person or entity producing crude oil within this state who performs no refining of crude oil into product, and who possesses or owns no retail gasoline marketing facilities.

(d) Every marine terminal operator shall pay a uniform oil spill response fee in an amount not exceeding twenty-five cents ($0.25), in accordance with subdivision (g), for each barrel of crude oil, as set by the administrator pursuant to subdivision (f), that is transported from within this state by means of marine vessel to a destination outside this state.

(e) Every operator of a pipeline shall pay a uniform oil spill response fee in an amount not exceeding twenty-five cents ($0.25), in accordance with subdivision (g), for each barrel of crude oil, as set by the administrator pursuant to subdivision (f), transported out of the state by pipeline.

(f) (1) The fees required pursuant to this section shall be collected during any period that the administrator determines that either the amount in the fund is less than or equal to 95 percent of the amount specified in paragraph (1) of subdivision (h), or additional moneys are required to pay for the purposes specified in subdivision (k).

(2) Whenever the administrator, in consultation with the State

Board of Equalization, estimates that the amount in the fund will reach the amount specified in paragraph (1) of subdivision (h), and the money in the fund is not required for the purposes specified in subdivision (k), the administrator shall direct the State Board of Equalization to cease collecting the fee. In no event shall the fee cease to be imposed if the Treasurer has borrowed money pursuant to Article 7.5 (commencing with Section 8670.53.1) and principal, interest, premium, fees, charges, or costs of any kind imposed in connection with those borrowings remain outstanding or unpaid, unless the Treasurer has certified to the administrator that the continued imposition of the fee is not required for the purposes specified in paragraph (7) of subdivision (k).

(3) The administrator, in consultation with the State Board of Equalization, shall set the amount of the oil spill response fees. The oil spill response fees shall be imposed on all feepayers in the same amount. The administrator shall not set the amount of the fee at less than twenty-five cents ($0.25) for each barrel of petroleum products or crude oil, unless the administrator finds that the assessment of a lesser fee will cause the fund to reach the designated amount within four months. The fee shall not be less than twenty-five cents ($0.25) for each barrel of petroleum products or crude oil if the Treasurer has borrowed money pursuant to Article 7.5 (commencing with Section 8670.53.1) and principal, interest, premium, fees, charges, or costs of any kind imposed in connection with those borrowings remain outstanding or unpaid, unless the Treasurer has certified to the administrator that the money in the fund is not required for the purposes specified in paragraph (7) of subdivision (k).

(g) The fees imposed by subdivisions (d) and (e) shall be imposed in any calendar year beginning the month following the month when the total cumulative year-to-date barrels of crude oil transported outside the state by all feepayers by means of vessel or pipeline exceeds 6 percent by volume of the total barrels of crude oil and petroleum products subject to oil spill response fees under subdivisions (a), (b), and (c) for the prior calendar year.

(h) For purposes of this chapter, "designated amount" means an amount equal to one hundred million dollars ($100,000,000), adjusted for inflation after January 1, 1991, according to an index which the administrator may reasonably choose, subject to the following:

(1) Fifty million dollars ($50,000,000) shall be retained in the fund as cash, adjusted for inflation.

(2) Fifty million dollars ($50,000,000), adjusted for inflation, shall be immediately accessible in the fund in the form of financial security obtained by the Treasurer as authorized by subdivision (p).

(i) (1) The administrator shall authorize refunds of any money collected, for reporting periods after January 31, 1991, in excess of the total of the amount specified in paragraph (1) of subdivision (h) and any amounts determined by the administrator to be necessary to provide for any of the purposes specified in paragraphs (1) to (6), inclusive, of subdivision (k) and, if the Treasurer has borrowed

money pursuant to Article 7.5 (commencing with Section 8670.53.1) and principal, interest, premium, fees, charges, or costs of any kind imposed in connection with those borrowings remain outstanding or unpaid, any amounts the Treasurer has certified to the administrator are required for the purposes specified in paragraph (7) of subdivision (k). The board, as directed by the administrator and in accordance with Section 46653 of the Revenue and Taxation Code, shall refund the excess amount of fees collected to each feepayer who paid the fee to the state, in proportion to the amount that each feepayer paid into the fund during the preceding 12 monthly reporting periods in which there was a fee due, including the month in which the fund exceeded the specified amount, and only for those periods which commenced on or after January 31, 1991. If the total amount of money in the fund exceeds the amount specified in this subdivision by 10 percent or less, refunds need not be ordered by the administrator. Nothing in this section shall require the refund of excess fees as provided in this subdivision more frequently than once each year.

(2) Any amount of fees collected in excess of the specified amount for periods prior to February 1, 1991, shall be refunded as follows:

(A) First, to feepayers who paid oil spill response fees under subdivision (d) or (e) of Section 8670.48 of the Government Code as added by Chapter 1248 of the Statutes of 1990.

(B) Second, to feepayers in proportion to the amount each feepayer paid into the fund for the period from September 24, 1990, to January 31, 1991, inclusive, less any amounts refunded pursuant to paragraph (1).

(j) The board shall collect the fee and adopt regulations implementing the fee collection program. All fees collected pursuant to this section shall be deposited in the Oil Spill Response Trust Fund.

(k) The fee described in this section shall be collected solely for any of the following purposes:

(1) To provide funds to cover promptly the costs of response, containment, and cleanup of oil spills into marine waters, including damage assessment costs, and wildlife rehabilitation as provided in Section 8670.61.5.

(2) To provide emergency loans and to cover response and cleanup costs and other damages suffered by the state or other persons or entities from oil spills into marine waters which cannot otherwise be compensated by responsible parties or the federal government.

(3) To pay claims for damages pursuant to Section 8670.51.

(4) To pay claims for damages, except for damages described in paragraph (7) of subdivision (g) of Section 8670.56.5, pursuant to Section 8670.51.1.

(5) To pay for the arrangement of fifty million dollars ($50,000,000), adjusted for inflation, of financial security as authorized by subdivision (p).

(6) To pay indemnity and related costs and expenses as

authorized by Section 8670.56.6.

(7) To pay principal, interest, premium, if any, and fees, charges, and costs of any kind imposed in connection with funds borrowed pursuant to Article 7.5 (commencing with Section 8670.53.1).

(*l*) The interest that the state earns on the funds deposited into the Oil Spill Response Trust Fund shall be deposited in the fund and shall be used to maintain the fund at the designated amount. If the fund exceeds the designated amount, the interest not needed to bring the fund to the designated amount shall be deposited into the Oil Spill Prevention and Administration Fund.

(m) The Legislature finds and declares that effective response to oil spills requires that the state have available sufficient funds in a response fund. The Legislature further finds and declares that maintenance of that fund is of utmost importance to the state and that the moneys in the fund shall be used solely for the purposes specified in subdivision (k).

(n) For the purposes of this section, "marine waters" includes the waterways used for waterborne commercial vessel traffic to the Port of Stockton and the Port of Sacramento.

(o) It is the intent of the Legislature, in enacting this section, that the fee shall not be imposed by a refiner, or a person or entity acting as an agent for a refiner, on crude oil produced by an independent crude oil producer.

(p) The Treasurer shall purchase fifty million dollars ($50,000,000), adjusted for inflation, of financial security which may be drawn upon immediately by the administrator upon making the determinations as required by Section 8670.49. The financial security shall be in a form as described in subdivision (a) of Section 8670.53.3.

(q) Nothing in this section limits the authority of the administrator to raise the oil spill response fees pursuant to Section 8670.48.5 of the Government Code.

SEC. 2.5. Section 8670.48 of the Government Code is amended to read:

8670.48. (a) (1) A uniform oil spill response fee in an amount not exceeding twenty-five cents ($0.25) for each barrel of petroleum products, as set by the administrator pursuant to subdivision (f), shall be imposed upon every person owning petroleum products at the time the petroleum products are received at a marine terminal within this state by means of a vessel from a point of origin outside this state. The fee shall be remitted to the State Board of Equalization by the terminal operator on the 25th day of each month based upon the number of barrels of petroleum products received during the preceding month.

(2) Every owner of petroleum products is liable for the fee until it has been paid to the state, except that payment to a marine terminal operator registered under this chapter is sufficient to relieve the owner from further liability for the fee.

(b) Every operator of a pipeline shall also pay a uniform oil spill response fee in an amount not exceeding twenty-five cents ($0.25)

for each barrel of petroleum products, as set by the administrator pursuant to subdivision (f), transported into the state by means of a pipeline operating across, under, or through the marine waters of the state. The fee shall be paid on the 25th day of each month based upon the number of barrels of petroleum products so transported into the state during the preceding month.

(c) (1) Every operator of a refinery shall pay a uniform oil spill response fee in an amount not exceeding twenty-five cents ($0.25) for each barrel of crude oil, as set by the administrator pursuant to subdivision (f), received at a refinery within the state. The fee shall be paid on the 25th day of each month based upon the number of barrels of crude oil so received during the preceding month.

(2) The fee shall not be imposed by a refiner, or a person or entity acting as an agent for a refiner, on crude oil produced by an independent crude oil producer as defined in paragraph (3). The board shall not identify a company as exempt from the fee requirements of this section if that company was reorganized, sold, or otherwise modified with the intent of circumventing the requirements of this section.

(3) For purposes of this chapter, "independent crude oil producer" means any person or entity producing crude oil within this state who performs no refining of crude oil into product, and who possesses or owns no retail gasoline marketing facilities.

(d) Every marine terminal operator shall pay a uniform oil spill response fee in an amount not exceeding twenty-five cents ($0.25), in accordance with subdivision (g), for each barrel of crude oil, as set by the administrator pursuant to subdivision (f), that is transported from within this state by means of marine vessel to a destination outside this state.

(e) Every operator of a pipeline shall pay a uniform oil spill response fee in an amount not exceeding twenty-five cents ($0.25), in accordance with subdivision (g), for each barrel of crude oil, as set by the administrator pursuant to subdivision (f), transported out of the state by pipeline.

(f) (1) The fees required pursuant to this section shall be collected during any period that the administrator determines that either the amount in the fund is less than or equal to 95 percent of the amount specified in paragraph (1) of subdivision (h), or additional moneys are required to pay for the purposes specified in subdivision (k).

(2) Whenever the administrator, in consultation with the State Board of Equalization, estimates that the amount in the fund will reach the amount specified in paragraph (1) of subdivision (h), and the money in the fund is not required for the purposes specified in subdivision (k), the administrator shall direct the State Board of Equalization to cease collecting the fee. In no event shall the fee cease to be imposed if the Treasurer has borrowed money pursuant to Article 7.5 (commencing with Section 8670.53.1) and principal, interest, premium, fees, charges, or costs of any kind imposed in

connection with those borrowings remain outstanding or unpaid, unless the Treasurer has certified to the administrator that the continued imposition of the fee is not required for the purposes specified in paragraph (7) of subdivision (k).

(3) The administrator, in consultation with the State Board of Equalization, shall set the amount of the oil spill response fees. The oil spill response fees shall be imposed on all feepayers in the same amount. The administrator shall not set the amount of the fee at less than twenty-five cents ($0.25) for each barrel of petroleum products or crude oil, unless the administrator finds that the assessment of a lesser fee will cause the fund to reach the designated amount within four months. The fee shall not be less than twenty-five cents ($0.25) for each barrel of petroleum products or crude oil if the Treasurer has borrowed money pursuant to Article 7.5 (commencing with Section 8670.53.1) and principal, interest, premium, fees, charges, or costs of any kind imposed in connection with those borrowings remain outstanding or unpaid, unless the Treasurer has certified to the administrator that the money in the fund is not required for the purposes specified in paragraph (7) of subdivision (k).

(g) The fees imposed by subdivisions (d) and (e) shall be imposed in any calendar year beginning the month following the month when the total cumulative year-to-date barrels of crude oil transported outside the state by all feepayers by means of vessel or pipeline exceeds 6 percent by volume of the total barrels of crude oil and petroleum products subject to oil spill response fees under subdivisions (a), (b), and (c) for the prior calendar year.

(h) For purposes of this chapter, "designated amount" means an amount equal to one hundred million dollars ($100,000,000), adjusted for inflation after January 1, 1991, according to an index which the administrator may reasonably choose, subject to the following:

(1) Fifty million dollars ($50,000,000) shall be retained in the fund as cash, adjusted for inflation.

(2) Fifty million dollars ($50,000,000), adjusted for inflation, shall be immediately accessible in the fund in the form of financial security obtained by the Treasurer as authorized by subdivision (p).

(3) The adjustment for inflation shall be suspended for the three-year period commencing July 1, 1993, and ending July 1, 1996, and no adjustment shall be made until July 1, 1997. The designated amount as of June 30, 1993, shall remain the designated amount until adjusted for inflation on July 1, 1997.

(i) (1) The administrator shall authorize refunds of any money collected, for reporting periods after January 31, 1991, in excess of the amount specified in paragraph (1) of subdivision (h) and any amounts determined by the administrator to be necessary to provide for any of the purposes specified in paragraphs (1) to (6), inclusive, of subdivision (k) and, if the Treasurer has borrowed money pursuant to Article 7.5 (commencing with Section 8670.53.1) and principal, interest, premium, fees, charges, or costs of any kind imposed in connection with those borrowings remain outstanding or

unpaid, any amounts the Treasurer has certified to the administrator are required for the purposes specified in paragraph (7) of subdivision (k). The board, as directed by the administrator and in accordance with Section 46653 of the Revenue and Taxation Code, shall refund the excess amount of fees collected to each feepayer who paid the fee to the state, in proportion to the amount that each feepayer paid into the fund during the preceding 12 monthly reporting periods in which there was a fee due, including the month in which the fund exceeded the specified amount, and only for those periods which commenced on or after January 31, 1991. If the total amount of money in the fund exceeds the amount specified in this subdivision by 10 percent or less, refunds need not be ordered by the administrator. Nothing in this section shall require the refund of excess fees as provided in this subdivision more frequently than once each year.

(2) Any amount of fees collected in excess of the specified amount for periods prior to February 1, 1991, shall be refunded as follows:

(A) First, to feepayers who paid oil spill response fees under subdivision (d) or (e) of Section 8670.48 of the Government Code as added by Chapter 1248 of the Statutes of 1990.

(B) Second, to feepayers in proportion to the amount each feepayer paid into the fund for the period from September 24, 1990, to January 31, 1991, inclusive, less any amounts refunded pursuant to paragraph (1).

(j) The board shall collect the fee and adopt regulations implementing the fee collection program. All fees collected pursuant to this section shall be deposited in the Oil Spill Response Trust Fund.

(k) The fee described in this section shall be collected solely for any of the following purposes:

(1) To provide funds to cover promptly the costs of response, containment, and cleanup of oil spills into marine waters, including damage assessment costs, and wildlife rehabilitation as provided in Section 8670.61.5.

(2) To provide emergency loans and to cover response and cleanup costs and other damages suffered by the state or other persons or entities from oil spills into marine waters which cannot otherwise be compensated by responsible parties or the federal government.

(3) To pay claims for damages pursuant to Section 8670.51.

(4) To pay claims for damages, except for damages described in paragraph (7) of subdivision (g) of Section 8670.56.5, pursuant to Section 8670.51.1.

(5) To pay for the arrangement of fifty million dollars ($50,000,000), adjusted for inflation, of financial security as authorized by subdivision (p).

(6) To pay indemnity and related costs and expenses as authorized by Section 8670.56.6.

(7) To pay principal, interest, premium, if any, and fees, charges, and costs of any kind imposed in connection with funds borrowed

pursuant to Article 7.5 (commencing with Section 8670.53.1).

(*l*) The interest that the state earns on the funds deposited into the Oil Spill Response Trust Fund shall be deposited in the fund and shall be used to maintain the fund at the designated amount. Interest earned for three years commencing on July 1, 1994, on funds deposited pursuant to paragraph (1) of subdivision (h) in the Oil Spill Response Trust Fund, as determined jointly by the Controller and the Director of Finance, shall be available upon appropriation by the Legislature in the Budget Act, to establish rescue and rehabilitation stations for oiled wildlife as described in Section 8670.37.5. Interest earned on the financial security portion of the fund, pursuant to paragraph (2) of subdivision (h), shall not be available for this purpose. If the fund exceeds the designated amount, the interest not needed to bring the fund to the designated amount shall be deposited into the Oil Spill Prevention and Administration Fund.

(m) The Legislature finds and declares that effective response to oil spills requires that the state have available sufficient funds in a response fund. The Legislature further finds and declares that maintenance of that fund is of utmost importance to the state and that the moneys in the fund shall be used solely for the purposes specified in subdivision (k).

(n) For the purposes of this section, "marine waters" includes the waterways used for waterborne commercial vessel traffic to the Port of Stockton and the Port of Sacramento.

(o) It is the intent of the Legislature, in enacting this section, that the fee shall not be imposed by a refiner, or a person or entity acting as an agent for a refiner, on crude oil produced by an independent crude oil producer.

(p) The Treasurer shall purchase fifty million dollars ($50,000,000), adjusted for inflation, of financial security which may be drawn upon immediately by the administrator upon making the determinations as required by Section 8670.49. The financial security shall be in a form as described in subdivision (a) of Section 8670.53.3.

(q) Nothing in this section limits the authority of the administrator to raise the oil spill response fees pursuant to Section 8670.48.5 of the Government Code.

SEC. 3. Section 8670.48.5 of the Government Code is amended to read:

8670.48.5. (a) The administrator may raise the fees specified in Section 8670.48 to a maximum of one dollar ($1) per barrel, provided that the fee may only be raised by maximum increments of twenty-five cents ($0.25) not more frequently than once every three months. The administrator shall raise the fee only upon making the following findings:

(1) A calamitous or unforeseen event, or series of events, has severely depleted or exhausted, or will severely deplete or exhaust, the fund.

(2) The Governor has requested the Treasurer to borrow the

funds and the Treasurer finds that the fee is insufficient for the Treasurer to borrow enough money to meet the reasonably anticipated demands on the fund for authorized expenditures, including providing funds for the costs of response, containment, and cleanup of oil spills, damage assessment costs, wildlife rehabilitation, emergency loans, and damage claims, or the Treasurer has previously borrowed funds pursuant to the Governor's request, and the Treasurer finds that the fee is insufficient to repay and secure existing borrowings.

(3) Failure to raise the fee in the amount proposed will result in unmet, or unpaid, authorized expenditures.

(b) At least 30 days prior to the day the increased fee shall be effective, the administrator shall inform the Legislature of his or her intent to raise the fee.

(c) A single, incremental increase shall be effective until the later of (1) the delivery by the Treasurer of a certificate to the administrator as authorized by subdivision (e) of Section 8670.53.3 or (2) the expiration date established by the administrator not to exceed one year. The increase may be renewed by the administrator before its expiration upon making the findings required by subdivision (a).

(d) It is the intent of the Legislature that the fund shall not be used for any purpose other than those set forth in this chapter.

SEC. 4. Section 8670.49 of the Government Code is amended to read:

8670.49. (a) Except to pay for the arrangement of the financial security as authorized by paragraph (5) of subdivision (k) and subdivision (p) of Section 8670.48, the administrator may only expend money from the fund if a discharge of oil into marine waters has occurred and the following determinations have been made:

(1) Except as authorized by Section 8670.51.1, a responsible party does not exist or the responsible party is unable or unwilling to provide adequate and timely cleanup and to pay for the damages resulting from the spill. The administrator shall make a reasonable effort to have the party responsible remove the oil or agree to pay for any actions resulting from the spill that may be required by law, provided that the efforts are not detrimental to fish, plant, animal, or bird life in the affected waters. The reasonable effort of the administrator shall include attempting to access the responsible parties' insurance or other proof of financial responsibility.

(2) Federal oil spill funds are not available or will not be available in an adequate period of time. Notwithstanding this subdivision, the administrator may expend money from the fund for authorized expenditures when a reimbursement procedure is in place to receive reimbursements from federal oil spill funds.

(b) Upon making the determinations specified in subdivision (a), the administrator shall immediately make whatever payments are necessary for responding to, containing, or cleaning up, the spill, including any wildlife rehabilitation required by law and payment of

claims pursuant to Sections 8670.51 and 8670.51.1.

SEC. 4.5. Section 8670.49 of the Government Code is amended to read:

8670.49. (a) Except to pay for the arrangement of the financial security as authorized by paragraph (5) of subdivision (k) and subdivision (p) of Section 8670.48 and to pay for the construction and initial equipping of rescue and rehabilitation facilities from interest earned on funds deposited in the fund as authorized by subdivision (*l*) of Section 8670.48, the administrator may only expend money from the fund if a discharge of oil into marine waters has occurred and the following determinations have been made:

(1) Except as authorized by Section 8670.51.1, a responsible party does not exist or the responsible party is unable or unwilling to provide adequate and timely cleanup and to pay for the damages resulting from the spill. The administrator shall make a reasonable effort to have the party responsible remove the oil or agree to pay for any actions resulting from the spill that may be required by law, provided that the efforts are not detrimental to fish, plant, animal, or bird life in the affected waters. The reasonable effort of the administrator shall include attempting to access the responsible parties' insurance or other proof of financial responsibility.

(2) Federal oil spill funds are not available or will not be available in an adequate period of time. Notwithstanding this subdivision, the administrator may expend money from the fund for authorized expenditures when a reimbursement procedure is in place to receive reimbursements from federal oil spill funds.

(b) Upon making the determinations specified in subdivision (a), the administrator shall immediately make whatever payments are necessary for responding to, containing, or cleaning up, the spill, including any wildlife rehabilitation required by law and payment of claims pursuant to Sections 8670.51 and 8670.51.1.

SEC. 5. Section 8670.51.1 of the Government Code is amended to read:

8670.51.1. (a) (1) Upon learning of an oil spill, the administrator shall immediately designate the responsible party, who, if that designation is not challenged, shall immediately, widely advertise the manner in which it shall accept and pay claims.

(2) If the designation of the administrator is challenged, the administrator shall immediately, widely advertise the manner in which he or she shall accept, process, and pay claims. If the administrator's designation is later upheld, all costs incurred by the administrator, including interest and appropriate penalties, shall be assessed against the responsible party.

(3) If the administrator is unable to designate a responsible party, the administrator shall immediately, widely advertise the manner in which the administrator shall accept, process, and pay claims. In the absence of a designated responsible party the claimant shall submit his or her claim to the federal fund. If there is no response within 60 days, the claimant may submit his or her claim to the fund.

(b) Claims under the amount of fifty thousand dollars ($50,000) may be submitted directly to the fund. The claimant shall not be required to make a demand on the responsible party or any federal fund. It is the intent of the Legislature that these claims be processed as expeditiously as possible, and the administrator shall contract with professional adjusters to handle the claims as fairly and professionally as possible. Claimants shall assign or subrogate all rights against the responsible party to the fund before payment and release.

(c) Claims in excess of the amount of fifty thousand dollars ($50,000) shall first be presented to the designated responsible party for payment. If a satisfactory response is not forthcoming within 60 days, the claimant shall submit his or her claim to the appropriate federal fund. If a satisfactory response is not forthcoming from the appropriate federal fund within 60 days, the claimant may submit the claim to the fund. If the administrator does not designate a responsible party, the claim shall be submitted directly to the appropriate federal fund.

(d) (1) If the federal fund completely rejects a claim, makes a partial offer, or the claimant rejects an offer, the claimant may, nevertheless, apply for reimbursement from the fund, provided that all evidence developed during the federal fund process shall be admissible during the processing of the claim. The administrator shall specifically consider any federal offer.

(2) Any federal payment shall be offset against any payment from the fund.

(3) The claimant shall assign or subrogate all rights under federal law to the fund. Any payment of claims from the fund shall require assignment or subrogation of the claimant's rights under state law to the fund.

(e) The administrator may levy fines against frivolous claims pursuant to Section 128.5 of the Code of Civil Procedure.

(f) Entities that pay into the fund shall have no standing to contest claims against the fund for claims less than one million dollars ($1,000,000). The entities may petition the administrator to have standing for claims between one million dollars ($1,000,000) and three million dollars ($3,000,000). The entities shall have standing for claims in excess of three million dollars ($3,000,000).

(g) An advisory committee comprised of entities that pay into the fund and other interested parties shall be created and the administrator shall consult with the committee on the manner in which payments are made from the fund.

(h) Claims for reimbursement from the fund shall be made within three years from the date the loss occurred.

(i) Dissatisfied claimants may sue the fund within six months of the administrator's final decision regarding a claim.

(j) The administrator shall develop and adopt regulations regarding the manner in which claims shall be required to be submitted, processed, heard, and challenged.

(k) Punitive damages shall not be paid from the fund.

SEC. 6. Section 8670.59 of the Government Code is amended to read:

8670.59. (a) Any civil action brought pursuant to this chapter or Division 7.8 (commencing with Section 8750) of the Public Resources Code, shall be brought in the county in which the spill, discharge, or violation occurred, the county in which the principal place of business of the defendant is located, or the county in which the defendant is doing business in this state.

(b) Notwithstanding any other provision of law, all criminal misdemeanor violations of this chapter and Division 7.8 (commencing with Section 8750) of the Public Resources Code shall be commenced within one year of the discovery of the facts or circumstances which constitute the violation.

(c) Notwithstanding any other provision of law, except as provided in subdivision (d), any action to recover civil damages or penalties shall be commenced within three years from the date of discovery of the facts or circumstances which constitute a violation of this chapter or Division 7.8 (commencing with Section 8750) of the Public Resources Code.

(d) Any action to recover civil damages or penalties pursuant to paragraph (3), (4), (5), (6), or (7) of subdivision (g) of Section 8670.56.5 because of effects on natural resources shall be commenced within five years from the date of the discovery of the facts or circumstances which are the basis for the cause of action.

(e) Any action to compel the removal of oil or the restoration and rehabilitation of wildlife and wildlife habitat shall be commenced within five years from the date of discovery of the facts or circumstances which constitute a violation of this chapter or Division 7.8 (commencing with Section 8750) of the Public Resources Code.

SEC. 7. 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) (1) "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 (A) the protection provided by the measures, (B) the technological achievability of the measures, and (C) the cost of the measures.

(2) 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, or construction site and does not exceed 20,000 gallons in a single storage tank. 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." For the purposes of this division, a small craft refueling dock is not 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) "Nonpersistent oil" means a petroleum-based oil, such as gasoline, diesel, or jet fuel, which evaporated relatively quickly. Specifically, it is an oil with hydrocarbon fractions, at least 50 percent of which, by volume, distills at a temperature of 645 Fahrenheit, and at least 95 percent of which, by volume, distills at a temperature of 700 Fahrenheit.

(k) "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.

(*l*) "Onshore facility" means any facility of any kind which is located entirely on lands not covered by marine waters.

(m) "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.

(n) "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.

(o) "Pipeline" means any pipeline used at any time to transport oil.

(p) "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.

(q) "Small craft refueling dock" means a fixed facility having tank storage capacity not exceeding 20,000 gallons in any single storage tank and that dispenses nonpersistent oil to small craft.

(r) "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.

(s) "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.

(t) "Tanker" means any self-propelled, waterborne vessel, constructed or adapted for the carriage of oil in bulk or in commercial quantities as cargo.

(u) "Vessel" means a tanker or barge as defined in this section.

SEC. 8. Section 46012 of the Revenue and Taxation Code is amended to read:

46012. "Designated amount" means an amount equal to one hundred million dollars ($100,000,000), adjusted for inflation after January 1, 1991, subject to the following:

(a) Fifty million dollars ($50,000,000) shall be retained in the Oil Spill Response Trust Fund as cash, adjusted for inflation.

(b) Fifty million dollars ($50,000,000), adjusted for inflation, shall be accessible in the Oil Spill Response Trust Fund in the form of financial security obtained by the Treasurer.

SEC. 9. Section 46054 of the Revenue and Taxation Code is amended to read:

46054. (a) Whenever the administrator, in consultation with the board, estimates that the amount in the Oil Spill Response Trust Fund, collected pursuant to Section 46052, will reach the amount specified in subdivision (a) of Section 46012, and the money in that fund is not required for the purposes specified in subdivision (k) of Section 8670.48 of the Government Code, the board shall notify the feepayers that, as of the first of the month following the notification, the fee will not be imposed. In no event shall the fee cease to be imposed if the Treasurer has borrowed money pursuant to Article 7.5 (commencing with Section 8670.53.1) of Chapter 7.4 of Division 1 of Title 2 of the Government Code, and principal, interest, premium, fees, charges, or costs of any kind imposed in connection with those borrowings remain outstanding or unpaid, unless the Treasurer has certified to the administrator that the continued imposition of the fee is not required for the purposes specified in paragraph (7) of subdivision (k) of Section 8670.48 of the Government Code.

(b) Whenever the fee has ceased to be imposed in accordance with subdivision (a) and the administrator, in consultation with the board, determines that either (1) the amount in the Oil Spill Response Trust Fund is less than or equal to 95 percent of the amount specified in subdivision (a) of Section 46012, or (2) additional money is required for the purposes specified in subdivision (k) of Section 8670.48 of the Government Code, the board shall notify the feepayers that, as of the first of the month following the notification, the fee will be imposed.

SEC. 10. Section 46653 of the Revenue and Taxation Code is amended to read:

46653. Whenever the total amount in the Oil Spill Response Trust Fund, collected pursuant to Section 46052, exceeds the total of the amount specified in subdivision (a) of Section 46012 and any amounts determined by the administrator to be necessary to provide for the purposes specified in paragraphs (1) to (6), inclusive, of subdivision (k) of Section 8670.48 of the Government Code and, if the Treasurer has borrowed money pursuant to Article 7.5 (commencing with Section 8670.53.1) of Chapter 7.4 of Division 1 of Title 2 of the Government Code, and principal, interest, premium, fees, charges, or costs of any kind imposed in connection with those borrowings remain outstanding or unpaid, any amounts the Treasurer has certified to the administrator are required for the purposes of paragraph (7) of subdivision (k) of Section 8670.48 of the Government Code, the administrator shall direct the board to provide refunds of the excess money. The board, as directed by the administrator, shall refund the excess money in that fund to each person who paid the fee to the state in proportion to the amount that

person paid into the fund during the preceding 12 monthly reporting periods in which there was a fee due, including the month in which the fund exceeded the amount specified in subdivision (a) of Section 46012. If the amount of money in the fund exceeds the amount specified in this section by 10 percent or less, refunds need not be ordered by the administrator. Nothing in this section shall require the refund of excess fees more frequently than once each year.

SEC. 11. The sum of one million dollars ($1,000,000) is hereby appropriated from the Oil Spill Prevention and Administration Fund to the administrator for oil spill response for purposes of making a loan to the Marine Exchange of Los Angeles-Long Beach Harbor, Inc., as designated in Article 4 (commencing with Section 445) of Chapter 1 of Division 3 of the Harbors and Navigation Code, to establish an interim Vessel Traffic Service (VTS) system for the ports of Los Angeles and Long Beach in order to provide for implementation of the VTS system authorized by Section 8670.21 of the Government Code. The loan shall be repaid, commencing with the 1994–95 fiscal year, in five equal annual installments with interest on the outstanding balance at the rate equal to that earned by the Pooled Money Investment Fund. The loan shall be repaid from fees imposed by the ports of Los Angeles and Long Beach to fund the interim VTS system, as authorized by paragraph (2) of subdivision (d) of Section 8670.21 of the Government Code, resale of any purchased equipment, and any fees imposed on the maritime industry by the administrator, as authorized by subdivision (c) of Section 8670.21 of the Government Code. Any loan proceeds that are not encumbered for the purpose of establishing the interim VTS system within one year from the date of the loan, as determined by the administrator, shall revert to the Oil Spill Prevention and Administration Fund.

SEC. 12. Of the money appropriated to the Department of Fish and Game from the Oil Spill Prevention and Administration Fund for local assistance by Item 3600-101-320 of the Budget Act of 1993 (Chapter 55 of the Statutes of 1993), the department may transfer any estimated savings to the money appropriated to the department from the fund for support of the department by Item 3600-001-320 of the Budget Act of 1993, to provide for an interagency agreement with the California Coastal Commission to review oil spill contingency plans, as required pursuant to Section 8670.36 of the Government Code.

SEC. 13. Section 2.5 of this bill incorporates amendments to Section 8670.48 of the Government Code proposed by both this bill and SB 775. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 8670.48 of the Government Code, and (3) this bill is enacted after SB 775, in which case Section 8670.48 of the Government Code, as amended by Section 2 of this bill, shall remain operative only until the operative date of SB 775, at which time Section 2.5 of this bill shall become

operative.

SEC. 14. Section 4.5 of this bill incorporates amendments to Section 8670.49 of the Government Code proposed by both this bill and SB 775. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 8670.49 of the Government Code, and (3) this bill is enacted after SB 775, in which case Section 8670.49 of the Government Code, as amended by Section 4 of this bill, shall remain operative only until the operative date of SB 775, at which time Section 4.5 of this bill shall become operative.

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 to authorize the Treasurer to borrow funds in a timely and cost-effective manner in accordance with the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act so as to ensure the ability of the state to adequately respond to oil spills, it is necessary that this act take effect immediately.

CHAPTER 1191

An act to amend Sections 116.550 and 1161.2 of the Code of Civil Procedure, relating to courts.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. The Legislature finds and declares the following:

(a) In many counties within the State of California, unscrupulous eviction defense services utilize records of court filings in unlawful detainer cases to solicit and defraud tenants.

(b) In 1991, the Legislature enacted Senate Bill 892 as Chapter 1007 of the Statutes of 1991, which, among other things, amended Section 1161.2 of the Code of Civil Procedure to restrict public access to court files during the first 30 days after an unlawful detainer action is filed. As a pilot project, Senate Bill 892 was to be deemed a success if it reduced by 15 percent the number of false "Arrieta" claims or reduced by 15 percent the number of bankruptcy petitions filed while an unlawful detainer action was pending against the petitioner. As originally enacted the provisions of Section 1161.2 were limited to the municipal courts of the San Diego Judicial District and the Counties of Los Angeles, Orange, and Alameda.

(c) The United States Bankruptcy Court for the Central District of California and the Los Angeles Municipal Court, the courts most

affected by the actions of unscrupulous eviction defense services, have demonstrated through statistical information that during its first year of operation Senate Bill 892 has meet both criteria to be determined a success. Significantly, in one county not subject to the provisions of Senate Bill 892, there has been an increase in bankruptcy petition filings for eviction delay purposes.

(d) Unscrupulous eviction defense services are still, however, able to gain access to unlawful detainer filings after the 30-day period and thereby continue to solicit and defraud California tenants. Both the United States Ninth Circuit Court of Appeals' Ad Hoc Committee on Unlawful Detainer and Bankruptcy Mills and the United States Attorney's Office have found that a 60-day ban on the release of unlawful detainer files would reduce access and result in fewer tenants being victimized by unscrupulous eviction defense services.

(e) A 60-day restriction on access to unlawful detainer filings affecting residential tenancies will significantly impede the ability of unscrupulous eviction defense services to continue their practice of defrauding tenants.

SEC. 2. 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.

(d) If a court interpreter or other competent interpreter is not available to aid a party in a small claims action, at the first hearing of the case the court shall postpone the hearing one time only to allow the party the opportunity to obtain another individual (other than an attorney) to assist that party. Any additional continuances shall be at the discretion of the court.

SEC. 3. Section 1161.2 of the Code of Civil Procedure is amended to read:

1161.2. (a) Except as provided in subdivision (g), 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 60 days following the date the complaint is filed, except pursuant to an ex parte court order upon a showing of good cause therefor by any

person including, but not limited to, a newspaper publisher. 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) Except as provided in subdivision (g), upon the filing of any case so restricted, the clerk of the municipal 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 60 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 60 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. Any such board

resolution in effect on January 1, 1994, shall remain in effect until it is repealed.

(e) A municipal court, after consultation with local associations of rental property owners, tenant groups, and providers of legal services to tenants, may exempt itself from the operation of this section upon a finding that unscrupulous eviction defense services are not a substantial problem in the judicial district. The court shall review the finding every 12 months. An exempt court shall not charge the additional fee authorized in subdivision (d).

(f) The Judicial Council shall examine the extent to which requests for access to files pursuant to an ex parte order under subdivision (a) are granted or denied, and if denied, the reason for the denial of access.

(g) This section shall not apply to a case which seeks to terminate a mobilehome park tenancy if the statement of the character of the proceeding in the caption of the complaint clearly indicates that the complaint seeks termination of a mobilehome park tenancy.

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 1192

An act to amend Sections 1161, 1163, 1164, 1166, 1167, and 1190 of the Harbors and Navigation Code, relating to pilotage.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 1161 of the Harbors and Navigation Code is amended to read:

1161. All amounts generated by the pension plan shall be used solely to pay pensions to retired pilots and inland pilots, disabled pilots and inland pilots, the surviving spouses of pilots and inland pilots, and to pay the expenses of the plan.

SEC. 2. Section 1163 of the Harbors and Navigation Code is amended to read:

1163. (a) (1) (A) Each retired pilot and inland pilot, who has completed 25 full years of service as a pilot or inland pilot, or both, shall receive, as a target monthly pension, an amount that is initially equal to 46 percent of an amount which is an average of the highest three of the last five years of audited annual average net income per pilot, prior to the pilot's or inland pilot's retirement, divided by 12, which initial target monthly pension amount shall be subject to periodic adjustment pursuant to Section 1167. Pilots or inland pilots with other than 25 full years of service as a pilot or inland pilot, or both, shall receive a monthly pension in an amount that is determined by multiplying the above calculated target monthly pension by a fraction, the numerator of which shall be the number of full years of service that the pilot or inland pilot has rendered, and the denominator of which shall be 25 years, which initial monthly pension amount shall be subject to periodic adjustment pursuant to Section 1167.

(B) Each disabled pilot or inland pilot shall receive as an initial target monthly pension an amount that is based on 46 percent of the greater of the following, which amount shall be subject to periodic adjustment pursuant to Section 1167:

(i) An amount that is the average of the highest three of the last five years of audited annual average net income per pilot or inland pilot divided by 12 and multiplied by a fraction, the numerator of which shall be the number of full years of service that the pilot or inland pilot has rendered, and the denominator of which shall be 25 years.

(ii) The audited annual average net income, per pilot, for the last year prior to the pilot's or inland pilot's disability, divided by 12 and multiplied by a fraction, the numerator of which shall be the number of full years of service that the pilot or inland pilot has rendered, and the denominator of which shall be 25 years.

(C) Each pilot who retired before January 1, 1985, shall receive as an initial target monthly pension an amount that is one hundred seventy-eight dollars ($178) multiplied by the number of full years of service he or she performed as a pilot licensed under this division, which amount shall be subject to periodic adjustment pursuant to Section 1167.

(D) Each pilot who retired on or after January 1, 1985, or each inland pilot who retired after January 1, 1993, shall receive as an initial target monthly pension an amount that is the greater of the following, which amount shall be subject to periodic adjustment pursuant to Section 1167:

(i) An amount that is calculated by multiplying one hundred seventy-eight dollars ($178) by the number of full years of service the pilot or inland pilot performed as a pilot or inland pilot licensed under this division.

(ii) An amount that is 46 percent of the average of the highest three of the last five years of audited annual average net income per pilot or inland pilot, prior to the pilot's or inland pilot's retirement,

divided by 12 and multiplied by a fraction, the numerator of which is the pilot's or inland pilot's actual number of full years of service and the denominator of which is 25 years.

(2) A pilot or inland pilot who retires or becomes disabled shall not begin to receive a pension until the beginning of the benefit payment period next following the date on which the pilot or inland pilot retires or becomes disabled.

(3) A pilot or inland pilot shall not receive any benefits pursuant to the pension plan in any benefit payment period unless the pilot's or inland pilot's resignation as an active pilot or inland pilot specifying a proposed date of retirement was submitted, in writing, to the board, prior to November if the pilot's or inland pilot's retirement is to be effective the first day of the following January, prior to February if the pilot's or inland pilot's retirement is to be effective the first day of the following April, prior to May if the pilot's or inland pilot's retirement is to be effective the first day of the following July, or prior to August if the pilot's or inland pilot's retirement is to be effective the first day of the following October. The pilot's or inland pilot's resignation as an active pilot or inland pilot shall become effective on either January 1, April 1, July 1, or October 1, as specified in the written resignation.

(4) If a retired or disabled pilot or inland pilot who is receiving a pension dies without a surviving spouse, the pilot's or inland pilot's successor in interest shall receive the monthly pension for the remainder of the benefit payment period within which the death occurs, after which time the monthly pension shall cease.

(b) (1) The surviving spouse of a deceased pilot who is eligible for a pension pursuant to paragraph (1) of subdivision (e) of Section 1164 and the surviving spouse of a deceased inland pilot who is eligible for a pension pursuant to paragraph (2) of subdivision (e) of Section 1164 shall each receive, as a monthly pension, three-fourths of the amount that the deceased pilot or inland pilot would have received as a monthly pension pursuant to this section had the pilot or inland pilot lived, calculated as if the deceased pilot or inland pilot had been disabled pursuant to subparagraph (B) of paragraph (1) of subdivision (a).

(2) If a retired or disabled pilot or inland pilot, who was receiving a pension, dies, the surviving spouse shall continue to receive the full amount of the monthly pension to which the deceased pilot or inland pilot was entitled for the balance of the benefit payment period within which the death occurs, after which the surviving spouse shall receive the amount specified in paragraph (1).

(3) If a surviving spouse receiving a pension dies, the surviving spouse's successor in interest shall receive the monthly pension for the remainder of the benefit payment period within which the death occurs, after which time the monthly pension shall cease.

(c) For the purpose of the computations described in paragraph (1) of subdivision (a), six months or more of service by a pilot or inland pilot shall be considered a full year.

(d) Except as provided otherwise in this section and paragraph (4) of subdivision (e) of Section 1164, monthly pension amounts payable pursuant to this section to retired pilots and inland pilots and to their surviving spouses are payable for the life of that retired pilot, inland pilot, or spouse.

(e) To determine an inland pilot's full years of service under this chapter, any periods of service that an inland pilot has performed as a pilot shall be added to any service time performed as an inland pilot after January 1, 1993.

SEC. 3. Section 1164 of the Harbors and Navigation Code is amended to read:

1164. (a) Except as provided in subdivision (b), a pilot shall be eligible for the pension provided in Section 1163 if the pilot meets all of the following requirements:

(1) Held a license as a pilot and served at least 10 years in that capacity or has attained 62 years of age, whichever occurs first.

(2) Retired after January 1, 1972.

(3) Is at least 60 years of age.

(b) A disabled pilot shall be eligible for the pension provided in Section 1163 if it has been determined by the board, based upon competent medical evidence, that the pilot is unable to perform the duties of a pilot. As used in this chapter, "disabled" means a disability of permanent or extended and uncertain duration, as determined by the board, on the basis of competent medical opinion.

(c) Except as provided in subdivision (d), an inland pilot shall be eligible for the pension provided in Section 1163 if the inland pilot meets all of the following requirements:

(1) Held a license as an inland pilot and served at least 10 years in that capacity after January 1, 1993, or has attained 62 years of age, whichever occurs first.

(2) Retired after January 1, 1993.

(3) Is at least 60 years of age.

(4) Since January 1, 1991, has held himself or herself out as providing pilotage assistance to the entire shipping industry consistent with the inland pilot's license.

(5) For services provided after January 1, 1994, performs a minimum of 75 assignments per calender year unless excused from performance of that requirement due to medical needs satisfactory to the board.

(d) A disabled inland pilot who meets the requirements of paragraph (4) of subdivision (c) shall be eligible for the pension provided in Section 1163 if it has been determined by the board, based upon competent medical evidence, that the inland pilot is unable to perform the duties of an inland pilot.

(e) (1) A surviving spouse of a deceased pilot shall be eligible for the pension provided in subdivision (b) of Section 1163 if that deceased pilot died after January 1, 1972, and that deceased pilot had held a license as a pilot.

(2) A surviving spouse of a deceased inland pilot shall be eligible

for the pension provided in subdivision (b) of Section 1163 if the deceased inland pilot died after January 1, 1993, had held a license as an inland pilot, and since January 1, 1991, had held himself or herself out as providing pilotage assistance to the entire shipping industry consistent with the inland pilot's license.

(3) In order for a surviving spouse to be eligible for any pension benefits pursuant to this chapter, the surviving spouse shall have been legally married to the deceased pilot or inland pilot for at least one year prior to the deceased pilot's or inland pilot's death.

(4) A surviving spouse of a deceased pilot or inland pilot shall neither be eligible for, nor receive, pension benefits pursuant to this chapter if the surviving spouse remarries. If a surviving spouse who is receiving a monthly pension under this chapter remarries, the surviving spouse's successor in interest shall receive the amount of the monthly pension for the remainder of the benefit payment period as if the surviving spouse had died, in accordance with paragraph (3) of subdivision (b) of Section 1163.

SEC. 4. Section 1166 of the Harbors and Navigation Code is amended to read:

1166. (a) The benefits actually paid out each month by the fiduciary agent or agents designated by the board to all retired and disabled pilots and inland pilots, to surviving spouses of deceased pilots and inland pilots, and to successors in interest shall be equal to the revenue received pursuant to Section 1165 during the preceding month less the expenses of the fiduciary agent or agents incurred during that month. The revenue, whether greater or less than the amount used in determining the tonnage rates under this chapter to provide the aggregate target pensions to which those persons are entitled according to Section 1163, shall be paid to each of them in proportion to the relative target amounts to which they are entitled, after payment of the expenses of the fiduciary agent or agents.

(b) Revenues for any month or year are the amounts to be received pursuant to the pension plan for pilotage during that month or year. The fiduciary agent or agents shall determine which accounting system shall be used to make the payment, provided that, if the accrual method is used, it shall be subject to later equitable adjustments for unpaid receivables.

(c) Benefits pursuant to the new rate calculations shall be paid commencing in February, May, August, and November of each year and shall continue through, and include, the next following April, July, October, and January, respectively, so that each benefit pension period equals three months of payments. The period during which benefits are paid is the benefit payment period.

SEC. 5. Section 1167 of the Harbors and Navigation Code is amended to read:

1167. (a) The board shall review the benefits received by retired or disabled pilots and inland pilots and their surviving spouses every three years or when the cumulative percentage increase in the Consumer Price Index (San Francisco Bay Area) has exceeded 12

percent, whichever occurs first.

(b) The board may increase the monthly pensions specified in Section 1163. Those increases shall take into consideration the maritime industry practice in the United States as brought to the attention of the board by the pilots, inland pilots, or the industry. The increase shall not exceed 50 percent of the cumulative increase in the Consumer Price Index (San Francisco Bay Area). Monthly pensions for retired pilots, inland pilots, or their surviving spouses who have been retired less than the full three-year interval between adjustments shall increase on a pro rata basis according to the number of months that those persons have been retired prior to that adjustment.

SEC. 6. 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 60.70 mills per high gross registered ton.

(A) This additional charge of 60.70 mills may be augmented by an incremental rate of 0.78 additional mill for each pilot appointed by the board in excess of 60 pilots.

(B) In addition to the rate augmentation specified in subparagraph (A), the additional charge of 60.70 mills per high gross registered ton shall be adjusted quarterly effective on April 1, July 1, October 1, and January 1 of each year based solely upon a quarterly recalculation of actual gross registered tonnage made during the quarter preceding the effective date of change, based upon the most recent four quarters' traffic volume. This quarterly adjustment shall be calculated by the fiduciary selected by the board pursuant to Section 1162. The fiduciary shall determine the quarterly adjusted rate by a calculation wherein the total revenue to be generated by the mill rate, as approved by the board at a public hearing on June 5, 1992, pursuant to Section 1201.6, is the dividend and the total of the actual gross registered tonnage from the four most recent quarters preceding the quarter ending immediately before the effective date of the adjustment is the divisor. The resultant quotient, calculated to the nearest one-hundredth of a mill, shall be the new mill rate effective on the first day of the succeeding quarter and will remain in effect for that quarter or until otherwise adjusted.

(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 1193

An act to amend Sections 53312.7, 53313.5, 53313.7, 53316.2, 53327, 53338, 53340.2, 53341.5, 53345.8, and 53359.5 of, and to add Section 53359.7 to, the Government Code, relating to local agencies.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 53312.7 of the Government Code is amended to read:

53312.7. (a) On and after January 1, 1994, a local agency may initiate proceedings to establish a district pursuant to this chapter only if it has first considered and adopted local goals and policies concerning the use of this chapter. The policies shall include at least the following:

(1) A statement of the priority that various kinds of public facilities shall have for financing through the use of this chapter, including public facilities to be owned and operated by other public agencies, including school districts.

(2) A statement concerning the credit quality to be required of bond issues, including criteria to be used in evaluating the credit quality.

(3) A statement concerning steps to be taken to ensure that prospective property purchasers are fully informed about their taxpaying obligations imposed under this chapter.

(4) A statement concerning criteria for evaluating the equity of tax allocation formulas, and concerning desirable and maximum amounts of special tax to be levied against any parcel pursuant to this chapter.

(5) A statement of definitions, standards, and assumptions to be used in appraisals required by Section 53345.8.

(b) The goals and policies adopted by any school district pursuant

to subdivision (a) shall include, but not be limited to, a priority access policy which gives priority attendance access to students residing in a community facilities district whose residents have paid special taxes which have, in whole or in part, financed the construction of school district facilities. The degree of priority shall reflect the proportion of each school's financing provided through the community facilities district. In developing a priority access policy for residents of a community facilities district, a school district may incorporate a school district attendance policy including criteria for student assignment such as goals to achieve ethnic, racial, or socioeconomic diversity; federal, state, or court mandates; transportation needs, safe pedestrian routes; grade levels for which facilities were designed; and ensuring students continuity of schooling within any single school year.

SEC. 2. 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 that 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. "Public utility" shall include all utilities, whether public and regulated by the Public Utilities Commission, or municipal. If the facilities are conveyed to the public utility, the agreement shall provide that the cost or a portion of the cost of the facilities that are the responsibility of the utility shall be refunded by the public utility to the district or improvement area thereof, to the extent that refunds are applicable pursuant to (1) the Public Utilities Code or rules of the Public Utilities Commission, as to utilities regulated by the commission, or (2) other laws regulating public utilities. 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 or real property, including privately owned buildings or real property, 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 any county or area designated by the President of the United States or by the Governor as a disaster area or for which the Governor has proclaimed the existence of a state of emergency because of earthquake damage, a district may also pay for any work deemed necessary to repair any damage to real property directly or indirectly caused by the occurrence of an earthquake cited in the President's or the Governor's designation or proclamation, or by aftershocks associated with that earthquake, including work to reconstruct, repair, shore up, or replace any building damaged or destroyed by the earthquake, and specifically including, but not limited to, work on any building damaged or destroyed in the Loma Prieta earthquake which occurred on October 17, 1989, or by its aftershocks. Work may be financed pursuant to this subparagraph only on property or buildings identified in a resolution of intention to establish a community facilities district adopted within seven years of the date on which the county or area is designated as a disaster area by the President or by the Governor or on which the Governor proclaims for the area the existence of a state of emergency.

(2) Work on privately owned property, including reconstruction or replacement of privately owned buildings pursuant to subparagraph (B) of paragraph (1), 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, or with the prior written consent to the tax of the owners of all property which may be subject to the tax, in which case the prior written consent shall be deemed to constitute a vote in favor of the tax and any associated bond issue. Any district created to finance seismic safety work on privately owned buildings, including repair, 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, repaired, reconstructed, or replaced, pursuant to this subdivision, are located or were located before being damaged or destroyed by the earthquake cited pursuant to subparagraph (B) of paragraph (1) or by the aftershocks of that earthquake.

(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 53313.7 of the Government Code is amended to read:

53313.7. (a) Upon making the findings pursuant to Section 53313.6, the legislative body may, with the concurrence of the legislative body which levied the property tax described in subdivision (a) of Section 53313.6, by ordinance, determine that the total annual amount of ad valorem property tax revenue due from parcels within the proposed community facilities district, for purposes of paying principal and interest on the debt identified in Section 53313.6, shall not be increased after the date on which the resolution of formation for the community facilities district is adopted, or after a later date determined by the legislative body creating the community facilities district with the concurrence of the legislative body which levied the property tax in question.

(b) The legislative body may, by ordinance, with the concurrence of the legislative body that levied the property tax described in subdivision (a) of Section 53313.6, determine to cease and eliminate the freeze on property tax revenue established pursuant to subdivision (a), upon determining that the community facilities district's special tax or portion thereof levied on the parcels in question to pay for the capital facilities specified in subdivision (b) of Section 53313.6 shall cease to be levied and collected.

SEC. 4. Section 53316.2 of the Government Code is amended to read:

53316.2. (a) A community facilities district may finance facilities to be owned or operated by an entity other than the agency that created the district, or services to be provided by an entity other than the agency that created the district, or any combination, only pursuant to a joint community facilities agreement or a joint exercise of powers agreement adopted pursuant to this section.

(b) At any time prior to the adoption of the resolution of formation creating a community facilities district or a resolution of change to alter a 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 or changed 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.

(c) 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.

(d) Notwithstanding subdivision (b), nothing in this section shall prevent entry into or amendment of a joint community facilities agreement or a joint exercise of powers agreement, after adoption of a resolution of formation, if the new agreement or amendment is necessary, as determined by the legislative body, for either of the following reasons:

(1) 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).

(2) To allow participation in the agreement by a state or federal agency that could or would not otherwise participate, including, but not limited to, the California Department of Transportation.

(e) Notwithstanding any other provision of this chapter, no local agency which is party to a joint exercise of powers agreement or joint community facilities agreement shall have primary responsibility for formation of a district or an improvement area within a district, or for an extension of authorized facilities and services or a change in special taxes pursuant to Article 3, unless that local agency is one or more of the following:

(1) A city, a county, or a city and county.

(2) An agency created pursuant to a joint powers agreement that is separate from the parties to the agreement, is responsible for the administration of the agreement, and is subject to the notification requirement of Section 6503.5.

(3) An agency that is reasonably expected to have responsibility for providing facilities or services to be financed by a larger share of the proceeds of special taxes and bonds of the district or districts created or changed pursuant to the joint exercise of powers agreement or the joint community facilities agreement than any other local agency.

SEC. 5. Section 53327 of the Government Code is amended to read:

53327. (a) Except as otherwise provided in this chapter, the provisions of law regulating elections of the local agency that calls an election pursuant to this chapter, insofar as they may be applicable, shall govern all elections conducted pursuant to this chapter. Except as provided in subdivision (b), there shall be prepared and included in the ballot material provided to each voter, an impartial analysis

pursuant to Section 3781 or 5011 or 5321 of the Elections Code, and arguments and rebuttals, if any, pursuant to Sections 3782 to 3787, inclusive, and 3795 of the Elections Code or pursuant to Sections 5012 to 5016, inclusive, and 5025 of the Elections Code, or pursuant to Sections 5322 to 5328, inclusive, of the Elections Code, or pursuant to other provisions of law applicable to other special districts as appropriate.

(b) If the vote is to be by the landowners of the proposed district, analysis and arguments may be waived with the unanimous consent of all the landowners and shall be so stated in the order for the election. When the local agency is a school district and the vote is to be by the landowners of the proposed district, the school district's legislative body may authorize an official of the district to conduct the election, including preparation of analysis and compilation of arguments.

SEC. 6. 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 adopt a resolution of change determining 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, are lawfully authorized, if two-thirds of the votes cast on the proposition are in favor of the proposed levy or changes.

(c) Upon adoption of a resolution of change, the clerk of the legislative body shall record notice of the changes pursuant to Section 3117.5 of the Streets and Highways Code.

SEC. 7. *Section 53340.2 of the Government Code is amended to read:*

53340.2. (a) The legislative body levying the special tax shall designate an office, department, or bureau of the local agency which shall be responsible for annually preparing the current roll of special tax levy obligations by assessor's parcel number on nonexempt property within the district and which will be responsible for estimating future special tax levies. The designated office, department, or bureau shall establish procedures to promptly respond to inquiries concerning current and future estimated tax liability. Neither the designated office, department, or bureau, nor

the legislative body, shall be liable if any estimate of future tax liability is inaccurate, nor for any failure of any seller to request a Notice of Special Tax or to provide the notice to a buyer.

(b) For purposes of enabling sellers of real property subject to the levy of special taxes to satisfy the notice requirements of subdivision (b) of Section 1102.6 of the Civil Code, the designated office, department, or bureau shall furnish a Notice of Special Tax to any individual requesting the notice or any owner of property subject to a special tax levied by the local agency within five working days of receiving a request for such notice. The local agency may charge a reasonable fee for this service not to exceed ten dollars ($10.00).

(c) The notice shall contain the heading "NOTICE OF SPECIAL TAX" in type no smaller than 8-point type, and shall be in substantially the following form. The form may be modified as needed to clearly and accurately describe the tax structure and other characteristics of districts created before January 1, 1993, or to clearly and accurately consolidate information about the tax structure and other characteristics of two or more districts that levy or are authorized to levy special taxes with respect to the lot, parcel, or unit. The notice shall be completed by the designated office, department, or bureau except for the signatures and date of signing:

NOTICE OF SPECIAL TAX

COMMUNITY FACILITIES DISTRICT NO. _____
COUNTY OF _____, CALIFORNIA

TO: THE PROSPECTIVE PURCHASER OF THE REAL PROPERTY KNOWN AS:

_____

_____

THIS IS A NOTIFICATION TO YOU PRIOR TO YOUR PURCHASING THIS PROPERTY.

This property is subject to a special tax, which is in addition to the regular property taxes and any other charges and benefit assessments on the parcel. This special tax may not be imposed on all parcels within the city or county where the property is located. If you fail to pay this tax when due each year, the property may be foreclosed upon and sold. The tax is used to provide public facilities or services that are likely to particularly benefit the property. YOU SHOULD TAKE THIS TAX AND THE BENEFITS FROM THE PUBLIC FACILITIES AND SERVICES FOR WHICH IT PAYS INTO ACCOUNT IN DECIDING WHETHER TO BUY THIS PROPERTY.

(2) The maximum special tax which may be levied against this parcel to pay for public facilities is $_____ during the _____–____ tax year. This amount will increase by ____ percent per year after that (if applicable). The special tax will be levied each

year until all of the authorized facilities are built and all special tax bonds are repaid, but in any case not after the _____-____ tax year.

An additional special tax will be used to pay for ongoing services, if applicable. The maximum amount of this tax is _____ dollars ($_____) during the _____-____ tax year. This amount may increase by _____, if applicable, and may be levied until the _____-____ tax year (or forever, as applicable).

(3) The authorized facilities which are being paid for by the special taxes, and by the money received from the sale of bonds which are being repaid by the special taxes, are:

These facilities may not yet have all been constructed or acquired and it is possible that some may never be constructed or acquired.

In addition, the special taxes may be used to pay for costs of the following services:

YOU MAY OBTAIN A COPY OF THE RESOLUTION OF FORMATION WHICH AUTHORIZED CREATION OF THE COMMUNITY FACILITIES DISTRICT, AND WHICH SPECIFIES MORE PRECISELY HOW THE SPECIAL TAX IS APPORTIONED AND HOW THE PROCEEDS OF THE TAX WILL BE USED, FROM THE _____ (name of jurisdiction) BY CALLING _____ (telephone number). THERE MAY BE A CHARGE FOR THIS DOCUMENT NOT TO EXCEED THE ESTIMATED REASONABLE COST OF PROVIDING THE DOCUMENT.

I (WE) ACKNOWLEDGE THAT I (WE) HAVE RECEIVED A COPY OF THIS NOTICE. I (WE) UNDERSTAND THAT I (WE) MAY TERMINATE THE CONTRACT TO PURCHASE OR DEPOSIT RECEIPT AFTER RECEIVING THIS NOTICE FROM THE OWNER OR AGENT SELLING THE PROPERTY. THE CONTRACT MAY BE TERMINATED WITHIN THREE DAYS IF THE NOTICE WAS RECEIVED IN PERSON OR WITHIN FIVE DAYS AFTER IT WAS DEPOSITED IN THE MAIL BY GIVING WRITTEN NOTICE OF THAT TERMINATION TO THE OWNER OR AGENT SELLING THE PROPERTY.

DATE: _____

_____

_____

SEC. 8. 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, the subdivider, his or her agent, or representative, shall not sell, or lease for a term exceeding five years, or permit a prospective purchaser or lessor to sign a contract of purchase or a deposit receipt or any substantially equivalent document in the event of a lease with respect to 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 be in substantially the following form. The form may be modified as needed to clearly and accurately describe the tax structure and other characteristics of districts created before January 1, 1993, or to clearly and accurately consolidate information about the tax structure and other characteristics of two or more districts that levy or are authorized to levy special taxes with respect to the lot, parcel, or unit:

NOTICE OF SPECIAL TAX

COMMUNITY FACILITIES DISTRICT NO. _____
COUNTY OF _____, CALIFORNIA

TO: THE PROSPECTIVE PURCHASER OF THE REAL PROPERTY KNOWN AS:

_____

_____

THIS IS A NOTIFICATION TO YOU PRIOR TO YOUR ENTERING INTO A CONTRACT TO PURCHASE THIS PROPERTY. THE SELLER IS REQUIRED TO GIVE YOU THIS NOTICE AND TO OBTAIN A COPY SIGNED BY YOU TO INDICATE THAT YOU HAVE RECEIVED AND READ A COPY OF THIS NOTICE.

(1) This property is subject to a special tax, which is in addition to the regular property taxes and any other charges, fees, special taxes, and benefit assessments on the parcel. It is imposed on this property because it is a new development, and may not be imposed generally upon property outside of this new development. If you fail to pay this tax when due each year, the property may be foreclosed upon and sold. The tax is used to provide public facilities or services that are likely to particularly benefit the property. YOU SHOULD TAKE THIS TAX AND THE BENEFITS FROM THE FACILITIES AND SERVICES FOR WHICH IT PAYS INTO ACCOUNT IN DECIDING WHETHER TO BUY THIS PROPERTY.

(2) The maximum special tax which may be levied against this parcel to pay for public facilities is $_____ during the _____-____ tax year. This amount will increase by ____ percent per year after that (if applicable). The special tax will be levied each year until all of the authorized facilities are built and all special tax bonds are repaid, but in any case not after the _____-____ tax year. An additional special tax will be used to pay for ongoing service costs, if applicable. The maximum amount of this tax is _____ dollars ($_____) during the _____-____ tax year. This amount may

increase by _____, if applicable, and that part may be levied until the _____-____ tax year (or forever, as applicable).

(3) The authorized facilities which are being paid for by the special taxes, and by the money received from the sale of bonds which are being repaid by the special taxes, are:

These facilities may not yet have all been constructed or acquired and it is possible that some may never be constructed or acquired.

In addition, the special taxes may be used to pay for costs of the following services:

YOU MAY OBTAIN A COPY OF THE RESOLUTION OF FORMATION WHICH AUTHORIZED CREATION OF THE COMMUNITY FACILITIES DISTRICT, AND WHICH SPECIFIES MORE PRECISELY HOW THE SPECIAL TAX IS APPORTIONED AND HOW THE PROCEEDS OF THE TAX WILL BE USED, FROM THE _____ (name of jurisdiction) BY CALLING _____ (telephone number). THERE MAY BE A CHARGE FOR THIS DOCUMENT NOT TO EXCEED THE REASONABLE COST OF PROVIDING THE DOCUMENT.

I (WE) ACKNOWLEDGE THAT I (WE) HAVE READ THIS NOTICE AND RECEIVED A COPY OF THIS NOTICE PRIOR TO ENTERING INTO A CONTRACT TO PURCHASE OR DEPOSIT RECEIPT WITH RESPECT TO THE ABOVE-REFERENCED PROPERTY. I (WE) UNDERSTAND THAT I (WE) MAY TERMINATE THE CONTRACT TO PURCHASE OR DEPOSIT RECEIPT WITHIN THREE DAYS AFTER RECEIVING THIS NOTICE IN PERSON OR WITHIN FIVE DAYS AFTER IT WAS DEPOSITED IN THE MAIL BY GIVING WRITTEN NOTICE OF THAT TERMINATION TO THE OWNER, SUBDIVIDER, OR AGENT SELLING THE PROPERTY.

DATE: _____ _____

_____ _____

_____ _____

(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 of the Civil Code, 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) The buyer shall have three days after delivery in person or five days after delivery by deposit in the mail of any notice required by this section, to terminate his or her agreement by delivery of written notice of that termination to the owner, subdivider, or agent.

(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. 9. Section 53345.8 of the Government Code is amended to read:

53345.8. (a) The legislative body may sell bonds pursuant to this chapter only if it determines prior to the award of sale of bonds that the value of the real property that would be subject to the special tax to pay debt service on the bonds will be at least three times the principal amount of the bonds to be sold and the principal amount of all other bonds outstanding that are secured by a special tax levied pursuant to this chapter on property within the community facilities district or a special assessment levied on property within the community facilities district. Any determination made pursuant to this subdivision shall be based upon the full cash value as shown on the ad valorem assessment roll or upon an appraisal of the subject property made in a manner consistent with the policies adopted pursuant to paragraph (5) of subdivision (a) of Section 53312.7 by a state certified real estate appraiser, as defined in subdivision (c) of Section 11340 of the Business and Professions Code. The Treasurer may recommend definitions, standards, and assumptions to be used for these appraisals. These definitions, standards, and assumptions are advisory only, and the definitions, standards, and assumptions to be applied to appraisals will be those adopted by the local agency pursuant to paragraph (5) of subdivision (a) of Section 53312.7.

(b) Notwithstanding the provisions of subdivision (a), if the legislative body selling the bonds finds and determines that the proposed bonds do not present any unusual credit risk due to the availability of credit enhancements or for other reasons specified by the legislative body, the provisions of subdivision (a) may be disregarded.

(c) Notwithstanding the provisions of subdivision (a), if the legislative body selling the bonds finds and determines by a vote of not less than four-fifths of all of its members that the proposed bond issue should proceed for specified public policy reasons, the provisions of subdivision (a) may be disregarded.

A finding and determination by the legislative body pursuant to this subdivision shall be final and conclusive upon all persons in the absence of actual fraud, and neither the legislative body nor the district shall have any liability of any kind whatsoever out of, or in connection with, any finding and determination.

SEC. 10. Section 53359.5 of the Government Code is amended to

read:

53359.5. (a) The legislative body shall, no later than 30 days prior to the sale of any bonds pursuant to this article, give written notice of the proposed sale to the California Debt Advisory Commission by mail, postage prepaid, as required by Chapter 12 (commencing with Section 8855) of Division 1 of Title 2.

(b) On and after January 1, 1993, each year after the sale of any bonds, including refunding bonds, pursuant to this article, and until the final maturity of the bonds, the legislative body shall, not later than October 30 of each year, supply the following information to the California Debt Advisory Commission by mail, postage prepaid:

(1) The principal amount of bonds outstanding.

(2) The balance in the bond reserve fund.

(3) The balance in the capitalized interest fund, if any.

(4) The number of parcels which are delinquent with respect to their special tax payments, the amount that each parcel is delinquent, the length of time that each has been delinquent, and when foreclosure was commenced for each delinquent parcel.

(5) The balance in any construction funds.

(6) The assessed value of all parcels subject to special tax to repay the bonds as shown on the most recent equalized roll.

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

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

(2) Funds are withdrawn from a reserve fund to pay principal and interest on the bonds beyond levels set by the California Debt Advisory Commission.

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

SEC. 11. Section 53359.7 is added to the Government Code, to read:

53359.7. Current information on the items listed in Section 53359.5 is a matter of public record, within the meaning of the California Public Records Act, Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1, even if the information is physically held by an agent or trustee of the public agency. Neither the legislative body, nor any of its officers, agents, or trustees shall be liable in any way for making that financial information available to anyone requesting it or for otherwise making it available to the public.

SEC. 12. Any proceedings to create or make changes in or issue bonds of 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 was adopted to establish the district or a resolution of consideration was adopted to make changes in the district or an improvement area within the district prior to the effective date of this act, and for which a special tax was first levied after January 1, 1994, may have been 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 have been 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. 13. Any proceedings to create or make changes in or issue bonds of 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 was adopted to establish the district or a resolution of consideration was adopted to make changes in the district or an improvement area within the district prior to January 1, 1993, and for which a special tax was first levied after January 1, 1993, may be or may have been 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 have been conducted in accordance with the Mello-Roos Community Facilities Act of 1982 as affected by Chapter 772 of 1992, 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. 14. 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 1194

An act to amend Sections 50078.6, 54954.6, and 61712 of the Government Code, to amend Section 2291.2 of the Health and Safety Code, to amend Sections 2850, 2853, 5194, 9527, 10301, 11302, 18070, 18343, 18663, 22090, 22526, 22556, 22588, 22590, 22624, 22626, 22629, 22631, and 36523 of, to add Sections 22630.5 and 36523.5 to, and to repeal Section 11300 of the Streets and Highways Code, relating to assessments, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 50078.6 of the Government Code is amended to read:

50078.6. The clerk of the local agency shall cause a copy of the notice of the filing of the report and of the time, date, and place of hearing thereon to be mailed to each parcel or property owner whose property would be subject to the assessment. The notice shall be mailed at least 45 days prior to the date set for hearing pursuant to Section 54954.6 by name to those persons whose name and address appear on the last equalized county assessment roll, the State Board of Equalization assessment roll, or as known to the clerk. The envelope or cover of the mailing shall include the name of the local agency and the return address of the sender. The mailed notice shall include the name of the local agency, the return address of the sender, the amount of the initial assessment, the amount of the maximum assessment, the duration and basis of the assessment, and a summary of the procedures for making a protest pursuant to Sections 50078.11 and 50078.12. The notice shall also contain the name and telephone number of the person designated by the legislative body to answer inquiries regarding the protest proceedings.

SEC. 2. Section 54954.6 of the Government Code is amended to read:

54954.6. (a) (1) Before adopting any new or increased general tax or any new or increased assessment, the legislative body of a city, county, special district, or joint powers authority shall conduct at least one public meeting at which local officials must allow public testimony regarding the proposed new or increased general tax or new or increased assessment in addition to the noticed public hearing at which the legislative body proposes to enact or increase the general tax or assessment.

For purposes of this section, the term "new or increased assessment" does not include any of the following:

(A) A fee which does not exceed the reasonable cost of providing the services, facilities, or regulatory activity for which the fee is

charged.

(B) A service charge or benefit charge, unless a special district's principal act requires service charges or benefit charges to conform to the requirements of this section.

(C) An ongoing annual assessment if it is imposed at the same or lower amount as any previous year.

(D) An assessment which does not exceed an assessment formula or range of assessments previously adopted by the agency or approved by the voters in the area where the assessment is imposed.

(E) Standby or immediate availability charges.

(2) The legislative body shall provide at least 45 days' public notice of the public hearing at which the legislative body proposes to enact or increase the general tax or assessment. The legislative body shall provide notice for the public meeting at the same time and in the same document as the notice for the public hearing, but the meeting shall occur prior to the hearing.

(b) (1) The joint notice of both the public meeting and the public hearing required by subdivision (a) with respect to a proposal for a new or increased general tax shall be accomplished by placing a display advertisement of at least one-eighth page in a newspaper of general circulation for three weeks pursuant to Section 6063 and by a first-class mailing to those interested parties who have filed a written request with the local agency for mailed notice of public meetings or hearings on new or increased general taxes. The public meeting pursuant to subdivision (a) shall take place no earlier than 10 days after the first publication of the joint notice pursuant to this subdivision. The public hearing shall take place no earlier than seven days after the public meeting pursuant to this subdivision. Notwithstanding paragraph (2) of subdivision (a), the joint notice need not include notice of the public meeting after the meeting has taken place. The public hearing pursuant to subdivision (a) shall take place no earlier than 45 days after the first publication of the joint notice pursuant to this subdivision. The public hearing shall take place no earlier than seven days after the public meeting pursuant to this subdivision. Any written request for mailed notices shall be effective for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year. The legislative body may establish a reasonable annual charge for sending notices based on the estimated cost of providing the service.

(2) The notice required by paragraph (1) of this subdivision shall include, but not be limited to, the following:

(A) The amount or rate of the tax. If the tax is proposed to be increased from any previous year, the joint notice shall separately state both the existing tax rate and the proposed tax rate increase.

(B) The activity to be taxed.

(C) The estimated amount of revenue to be raised by the tax annually.

(D) The method and frequency for collecting the tax.

(E) The dates, times, and locations of the public meeting and hearing described in subdivision (a).

(F) The phone number and address of an individual, office, or organization that interested persons may contact to receive additional information about the tax.

(c) (1) The joint notice of both the public meeting and the public hearing required by subdivision (a) with respect to a proposal for a new or increased assessment on real property shall be accomplished through a mailing, postage prepaid, in the United States mail and shall be deemed given when so deposited. The public meeting pursuant to subdivision (a) shall take place no earlier than 10 days after the joint mailing pursuant to this subdivision. The public hearing shall take place no earlier than seven days after the public meeting pursuant to this subdivision. The envelope or the cover of the mailing shall include the name of the local agency and the return address of the sender. This mailed notice shall be in at least 10-point type and shall be given to all property owners proposed to be subject to the new or increased assessment by a mailing by name to those persons whose names and addresses appear on the last equalized county assessment roll or the State Board of Equalization assessment roll, as the case may be.

(2) The joint notice required by paragraph (1) of this subdivision shall include, but not be limited to, the following:

(A) The estimated amount of the assessment per parcel. If the assessment is proposed to be increased from any previous year, the joint notice shall separately state both the amount of the existing assessment and the proposed assessment increase.

(B) A general description of the purpose or improvements that the assessment will fund.

(C) The address to which property owners may mail a protest against the assessment.

(D) The phone number and address of an individual, office, or organization that interested persons may contact to receive additional information about the assessment.

(E) A statement that a majority protest will cause the assessment to be abandoned if the assessment act used to levy the assessment so provides. Notice must also state the percentage of protests required to trigger an election, if applicable.

(F) The dates, times, and locations of the public meeting and hearing described in subdivision (a).

(3) Notwithstanding paragraph (1), in the case of an assessment which is proposed exclusively for operation and maintenance expenses for an entire city, county, or district, or operation and maintenance assessments proposed to be levied on 50,000 parcels or more, notice may be provided pursuant to paragraph (1) of subdivision (b) and shall include the information required by paragraph (2) of subdivision (c).

(4) Notwithstanding paragraph (1), in the case of an assessment proposed to be levied pursuant to Part 2 (commencing with Section

22500) of Division 2 of the Streets and Highways Code by a regional park district, regional park and open-space district, or regional open-space district formed pursuant to Article 3 (commencing with Section 5500) of Chapter 3 of Division 5 of, or pursuant to Division 26 (commencing with Section 35100) of, the Public Resources Code, notice may be provided pursuant to paragraph (1) of subdivision (b).

(d) The notice requirements imposed by this section shall be construed as additional to, and not to supersede, existing provisions of law, and shall be applied concurrently with the existing provisions so as to not delay or prolong the governmental decisionmaking process.

(e) This section shall not apply to any new or increased general tax or any new or increased assessment that requires an election of either of the following:

(1) The property owners subject to the assessment.

(2) The voters within the city, county, special district, or joint powers authority imposing the tax or assessment.

(f) Nothing in this section shall prohibit a local agency from holding a consolidated meeting or hearing at which the legislative body discusses multiple tax or assessment proposals.

(g) The local agency may recover the reasonable costs of public meetings, public hearings, and notice required by this section from the proceeds of the tax or assessment. The costs recovered for these purposes, whether recovered pursuant to this subdivision or any other provision of law, shall not exceed the reasonable costs of the public meetings, public hearings, and notice.

SEC. 3. Section 61712 of the Government Code is amended to read:

61712. Assessments in an improvement district in a district shall be levied, collected and enforced at the same time and in as nearly the same manner as practicable as annual taxes for purposes of the district in which formed, except that the assessment shall be made in the same manner as provided with respect to improvement districts in irrigation districts, and that notice for a new or increased assessment shall be pursuant to Section 54954.6.

SEC. 4. Section 2291.2 of the Health and Safety Code is amended to read:

2291.2. (a) (1) The district board may institute projects for one or more zones, for the financing and execution of vector surveillance and control projects of common benefit to the zone or zones.

(2) Before beginning a project, the district board shall adopt a resolution which shall specify its intention to undertake the project, estimate the cost to be borne by the zones, state the duration of the assessment, state the general objectives of the surveillance or control project, and fix a time and place for a public hearing and a public meeting on the project. In the case of more than one zone, the resolution shall specify the proportionate cost to be borne by each of the zones.

(3) Notice of the public meeting and the public hearing shall be

given pursuant to Section 54954.6 of the Government Code.

(b) At any time before the time set for the hearing, any owner of any property which is proposed to be assessed may make written protest against the proposed project and assessment. The written protest shall contain a description of the property sufficient to identify the property. If the signer is not shown on the last equalized assessment roll as the owner of that property, the written protest shall contain written evidence that the signer is an owner of the property proposed to be assessed.

(c) At the time and place stated in the notice for the public meeting and the public hearing, the district board shall hear and consider any objections and protests to the proposed project and assessments.

The district board may continue the public meeting and the public hearing from time to time. Any written protest may be withdrawn in writing by the person making the protest at any time before the conclusion of the hearing.

(d) Following the conclusion of the hearing, if the district board finds that the written protests filed and not withdrawn represent 50 percent or more of the total amount of expected revenue from the proposed assessment, the board shall abandon the proposed project and assessment. If the district board finds that the written protests filed and not withdrawn represent less than 50 percent of the total amount of expected revenue from the proposed assessment, the district board may, at its discretion, proceed with or abandon the proposed project and assessment.

(e) The assessments levied pursuant to this section shall be collected at the same time and in the same manner as county taxes. The county may deduct its actual costs incurred for collecting the assessments before remitting the balance to the district. The assessments shall be a lien on all the property benefited thereby. Liens for the assessments shall be of the same force and effect as liens for taxes, and their collection may be enforced by the same means as provided for the enforcement of liens for county taxes.

(f) For the purposes of an assessment levied under this section, the property so assessed within a given zone is equally benefited.

SEC. 5. Section 2850 of the Streets and Highways Code is amended to read:

2850. The legislative body shall fix a time and place of hearing on the approved report and may order the hearing to be held by the legislative body or by other public officers or public board of the city or county governed by the legislative body as may be designated by it. The public officers or public board shall serve without additional compensation.

SEC. 6. Section 2853 of the Streets and Highways Code is amended to read:

2853. The notice of the hearing must be mailed at least 30 days prior to the date of the hearing.

SEC. 7. Section 5194 of the Streets and Highways Code is

amended to read:

5194. The legislative body shall appoint the time and place of the hearing on the resolution of intention and shall cause notice of that hearing and the public meeting required by Section 54954.6 of the Government Code to be mailed as provided in subdivision (c) of that section.

SEC. 8. Section 9527 of the Streets and Highways Code is amended to read:

9527. Notice of the hearing shall be given by publication, pursuant to Section 6062a of the Government Code, in a newspaper of general circulation published in the city or, if there is no newspaper published in the city, then in a newspaper of general circulation published in the county in which the city is located, and by mailing in the time and manner required by Section 10306; or, if the reassessment will not be in the same or lesser amount than the original assessments, in the manner set forth in Section 54954.6 of the Government Code. The notice shall set forth the fact and date of the adoption of the resolution of intention and of the filing of the report and all of the following:

(a) A statement of the time, place, and purpose of the hearing on the resolution of intention and report.

(b) A statement of the total estimated cost of the proposed reassessment and refunding.

(c) The amount, as shown by the report, to be reassessed against the particular parcel covered by the notice.

(d) A statement that any person interested may file a protest in writing as provided in this division.

(e) A reference to the resolution of intention and report on file in the office of the city clerk for particulars.

Any consents of landowners required by the state or federal constitutions shall be obtained in the time, form, and manner required by Chapter 5 (commencing with Section 9180) of Division 11, the terms of which are hereby referred to and incorporated herein by reference.

SEC. 9. Section 10301 of the Streets and Highways Code is amended to read:

10301. After passing on the report, the legislative body shall by resolution appoint the time and place for hearing protests to the proposed assessment and shall cause notice of that hearing and a public meeting required by Section 54954.6 of the Government Code to be mailed as provided in subdivision (c) of that section.

SEC. 10. Section 11300 of the Streets and Highways Code is repealed.

SEC. 11. Section 11302 of the Streets and Highways Code is amended to read:

11302. A copy of the resolution shall be mailed, not less than 45 days prior to the hearing to each person to whom any of the following described lands is assessed as shown on the last equalized assessment roll, at his address as shown upon such roll, and to any person,

whether owner in fee or having a lien upon, or legal or equitable interest in, any of such lands whose name and address and a designation of the land in which he is interested is on file in the office of the city clerk or county clerk, as the case may be. Such lands are as follows:

(a) All parcels of land abutting upon any portion of the pedestrian mall or any portion of any intersecting street.

(b) If assessments are to be levied as contemplated by Section 11202, then all parcels of land within the assessment district described in the resolution pursuant to such section.

The legislative body may determine that such resolution shall also be mailed to such other persons as it may specify.

SEC. 12. Section 18070 of the Streets and Highways Code is amended to read:

18070. After the adoption of the resolution of intention, the city council shall direct the clerk to give notice and set the time and date for a public meeting and public hearing pursuant to Section 54954.6 of the Government Code.

SEC. 13. Section 18343 of the Streets and Highways Code is amended to read:

18343. The city council shall cause notice to be mailed and set the time and date for a public meeting and public hearing pursuant to Section 54954.6 of the Government Code.

SEC. 14. Section 18663 of the Streets and Highways Code is amended to read:

18663. The resolution of intention shall contain:

(a) A statement of the public ways to be lighted.

(b) A general description of the lighting systems to be maintained and operated.

(c) A statement of the general items of expense of maintenance and operation proposed to be furnished for the street lighting systems, the cost of which is to be assessed in whole or in part against the lands within the district. Such items may include electric power, gas, repairs, replacements, and any other items necessary for the proper maintenance of the street lighting systems.

(d) A statement of the estimated cost of all other items of maintenance and operation to be furnished the systems in the district for the first year and in addition thereto a separate estimate of the amount of gas or electric power necessary for the systems each year.

(e) A general description of the boundaries of the district to be benefited by and to be assessed to pay the costs of the maintenance and operation.

(f) A statement of the length of time, which shall not exceed five years from the date of the formation of the district, that the maintenance and operation shall be furnished for the systems.

(g) Notice of a public meeting and public hearing shall be given pursuant to Section 54954.6 of the Government Code. All persons having any interest in lands within the district liable to be assessed

for the expenses of the maintenance and operation may be heard at the public meeting and the public hearing and any of these persons may present any objections that they may have by written protest filed with the clerk at or before the time set for the hearing.

SEC. 15. Section 22090 of the Streets and Highways Code is amended to read:

22090. The city council shall cause notice to be mailed and set the time and date for a public meeting and public hearing pursuant to Section 54954.6 of the Government Code.

SEC. 16. Section 22526 of the Streets and Highways Code is amended to read:

22526. "Incidental expenses" include all of the following:

(a) The costs of preparation of the report, including plans, specifications, estimates, diagram, and assessment.

(b) The costs of printing, advertising, and the giving of published, posted, and mailed notices.

(c) Compensation payable to the county for collection of assessments.

(d) Compensation of any engineer or attorney employed to render services in proceedings pursuant to this part.

(e) Any other expenses incidental to the construction, installation, or maintenance and servicing of the improvements.

(f) Any expenses incidental to the issuance of bonds or notes pursuant to Section 22662.5.

(g) Costs associated with any elections held for the approval of a new or increased assessment.

SEC. 17. Section 22556 of the Streets and Highways Code is amended to read:

22556. Prior to levying a new assessment pursuant to Chapter 2 (commencing with Section 22585), the legislative body shall cause notice of a public meeting and public hearing to be mailed pursuant to Section 54954.6 of the Government Code.

SEC. 18. Section 22588 of the Streets and Highways Code is amended to read:

22588. The clerk shall give notice of hearing as provided in Section 22556.

SEC. 19. Section 22590 of the Streets and Highways Code is amended to read:

22590. The legislative body shall hold the public meeting and public hearing held pursuant to Section 54954.6 of the Government Code to establish the proposed district at the time and place fixed in the resolution of intention and in any order continuing the hearing. All interested persons shall be afforded the opportunity to hear and be heard. The legislative body shall consider all oral statements and all written protests or communications made or filed by any interested persons.

SEC. 20. Section 22624 of the Streets and Highways Code is amended to read:

22624. After approval of the report, either as filed or as modified,

the legislative body shall adopt a resolution of intention. The resolution shall:

(a) Declare the intention of the legislative body to levy and collect assessments within the assessment district for the fiscal year stated therein, except that it shall not impose an assessment upon a federal or state governmental agency or another local agency.

(b) Generally describe the existing and proposed improvements and any substantial changes proposed to be made in existing improvements.

(c) Refer to the assessment district by its distinctive designation and indicate the general location of the district.

(d) Refer to the report of the engineer, on file with the clerk, for a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the district.

(e) Give notice of the time, as fixed by Section 22625, and the place for hearing by the legislative body on the levy of the proposed assessment.

(f) State whether the assessment is proposed to increase from the previous year.

SEC. 21. Section 22626 of the Streets and Highways Code is amended to read:

22626. Notice of the hearing shall be given by either of the following methods:

(a) If the assessments are to be levied in the same or lesser amounts than in any previous year, the clerk shall give notice by causing the resolution of intention to be published pursuant to Sections 22552 and 22553.

(b) If the assessments are to be increased from the previous year, notice of the public meeting and public hearing required by Section 54954.6 of the Government Code shall be mailed as provided in subdivision (c) of that section.

SEC. 22. Section 22629 of the Streets and Highways Code is amended to read:

22629. If notice is given pursuant to subdivision (a) of Section 22626, the legislative body shall hold the public hearing at the time and place specified in the resolution of intention and in any order continuing the hearing. If notice is given pursuant to subdivision (b) of Section 22626, the legislative body shall hold the public meeting and public hearing held pursuant to Section 54954.6 of the Government Code at the time and place specified in the joint notice and in any order continuing the hearing. All interested persons shall be afforded the opportunity to hear and be heard. The legislative body shall consider all oral statements and all written protests made or filed by any interested person. The legislative body may continue the hearing from time to time, provided, that no continuance shall be made to a date subsequent to August 10 without the prior consent of the county auditor.

SEC. 23. Section 22630.5 is added to the Streets and Highways Code, to read:

22630.5. If there is a majority protest against the levy of an annual assessment after the formation of the assessment district that is increased from any previous year, the proposed increase in the assessment shall be abandoned. A majority protest exists if, upon the conclusion of the hearing, written protests filed and not withdrawn represent property owners owning more than 50 percent of the area of assessable lands within the proposed district. For purposes of this section, "increased assessment" shall have the same meaning as provided in Section 54954.6 of the Government Code.

SEC. 24. Section 22631 of the Streets and Highways Code is amended to read:

22631. If a majority protest has not been filed, the legislative body may adopt a resolution confirming the diagram and assessment, either as originally proposed 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 assessment.

SEC. 25. 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, for 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 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. 26. Section 36523.5 is added to the Streets and Highways Code, to read:

36523.5. Notwithstanding Section 36523, prior to adopting any new or increased assessment, the city council shall give notice pursuant to Section 54954.6 of the Government Code in lieu of publishing notice pursuant to subdivision (a) of Section 36523.

SEC. 27. The provisions of this act are declarative of existing law.

SEC. 28. 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. 29. This act is an urgency statute necessary for the

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 as follows:

In order to clarify the procedures for levying new and increased local general taxes and assessments, it is necessary that this act take effect immediately.

CHAPTER 1195

An act to amend Sections 4201, 6159, 8162.9, 8180, 23101, 23119, 23130, 23133, 24000, 24250, 24256, 24304, 25332, 25845, 27008, 29088, 36934, 37110, 53080.1, 53534, 53901, 56844, 57025, and 68096.1 of, to add Sections 25521.5, 26990, 57330, and 65352.5 to, to repeal Section 40101 of, and to repeal Article 5.5 (commencing with Section 65958) of Chapter 4.5 of Division 1 of Title 7 of, the Government Code, to amend Sections 6937 and 6944 of, and to repeal Section 6832 of the Harbors and Navigation Code, to amend Sections 6487, 13800, and 13893 of, and to add Sections 4730.8 and 6480.7 to, the Health and Safety Code, to amend Sections 20206.9 and 22300 of, to add Section 20131 to, and to repeal Sections 9202, 20206.7, and 20206.8 of, the Public Contract Code, to add Sections 5541.2 and 5552.1 to the Public Resources Code, to add Section 97.05 to the Revenue and Taxation Code, to amend Section 1806 of the Streets and Highways Code, to amend Sections 21102, 21375, 21560, 22980, 74661, and 74466 of, and to add Section 75601 to, the Water Code, to amend Section 11 of Chapter 129 of the Statutes of 1868, to amend Sections 26.6 and 26.9 of Chapter 1405 of the Statutes of 1951, to amend Section 7.1 of Chapter 2137 of the Statutes of 1959, and to amend Section 700 of Chapter 1399 of the Statutes of 1987, relating to local agencies.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. This act shall be known and may be cited as the Local Government Omnibus Act of 1993. 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. The Legislature further finds and declares that it desires to reduce its own operating costs by reducing the number of separate bills affecting related topics. Therefore, in enacting this act, it is the intent of the Legislature to combine several minor, noncontroversial statutory changes relating to public agencies into a single measure.

SEC. 1.5. Section 4201 of the Government Code is amended to read:

4201. Any local agency that undertakes or contracts for an

excavation for the installation, removal, maintenance, or repair of underground facilities may backfill that excavation in any local agency public road or highway with native spoil if the conditions in subdivisions (a), (b), and (c) are met. Where the excavation is performed by contract, use of native spoil shall be permitted unless otherwise specified in the contract documents.

(a) The native spoil is competent spoil.

(b) Compaction meets the local agency's requirements, using industry standards for testing compaction.

(c) The local agency or its contractor has no physical evidence of, or substantial reason to believe that there has been, contamination of the soil from hazardous waste.

SEC. 2. Section 6159 of the Government Code, as amended by Chapter 219 of the Statutes of 1993, is amended to read:

6159. (a) As used in this section:

(1) "Credit card" means any card, plate, coupon book, or other credit device existing for the purpose of being used from time to time upon presentation to obtain money, property, labor, or services on credit.

(2) "Card issuer" means any person who issues a credit card and purchases credit card drafts or the agent of such person for such purposes with respect to such card.

(3) "Cardholder" means any person to whom a credit card is issued or any person who has agreed with the card issuer to pay obligations arising from the issuance of a credit card to another person.

(4) "Draft purchaser" means any person who purchases credit card drafts.

(b) Subject to the provisions of subdivision (c), a court, city, county, city and county, or other public agency may authorize the acceptance of a credit card for any of the following:

(1) The payment for the deposit of bail or for any fine for any offense not declared to be a felony.

(2) The payment of a filing fee or other court fee.

(3) The payment of any towage or storage costs for a vehicle which has been removed from a highway, or from public or private property, as a result of parking violations.

(4) The payment of child, family, or spousal support, including reimbursement of public assistance, related fees, costs, or penalties, with the authorization of the cardholder.

(5) The payment for services rendered by any city, county, city and county, or other public agency.

(6) The payment of any fee, charge, or tax due a city, county, city and county, or other public agency.

(c) A court desiring to authorize the use of a credit card pursuant to subdivision (b) shall obtain the approval of its county board of supervisors. A city desiring to authorize the use of a credit card pursuant to subdivision (b) shall obtain the approval of its city council. Any other public agency desiring to authorize the use of a

credit card pursuant to subdivision (b) shall obtain the approval of the governing body which has fiscal responsibility for such agency. After approval is obtained, a contract may be executed with one or more credit card issuers or draft purchasers. The contract shall provide for:

(1) The respective rights and duties of the court, city, county, city and county, or other public agency and card issuer or draft purchaser regarding the presentment, acceptability and payment of credit card drafts.

(2) The establishment of a reasonable means by which to facilitate payment settlements.

(3) The payment to the card issuer or draft purchaser of a reasonable fee or discount.

(4) Such other matters appropriately included in contracts with respect to the purchase of credit card drafts as may be agreed upon by the parties to the contract.

(d) The honoring of a credit card pursuant to subdivision (b) hereof constitutes payment of the amount owing to the court, city, county, city and county, or other public agency as of the date the credit card is honored provided the credit card draft is paid following its due presentment to a card issuer or draft purchaser.

(e) If any credit card draft is not paid following due presentment to a card issuer or draft purchaser or is charged back to the court, city, county, city and county, or other public agency for any reason, any record of payment made by the court, city, or other public agency honoring the credit card shall be void. Any receipt issued in acknowledgment of payment shall also be void. The obligation of the cardholder shall continue as an outstanding obligation as though no payment had been attempted.

(f) Notwithstanding Title 1.3 (commencing with Section 1747) of Part 4 of Division 3 of the Civil Code, a court, city, county, city and county, or any other public agency may impose a fee for the use of a credit card, not to exceed the costs incurred by the agency in providing for payment by credit card. These costs may include, but shall not be limited to, the payment of fees or discounts as specified in paragraph (3) of subdivision (c). Any fee imposed pursuant to this subdivision for the use of a credit card shall be approved by the governing body responsible for the fiscal decisions of the public agency.

(g) Fees or discounts provided for under paragraph (3) of subdivision (c) shall be deducted or accounted for prior to any statutory or other distribution of funds received from the card issuer or draft purchaser to the extent not recovered from the cardholder pursuant to subdivision (f).

SEC. 2.3. Section 8162.9 of the Government Code is amended to read:

8162.9. (a) Notwithstanding subdivision (a) of Section 8162.7, a 96-foot height limit shall apply to construction, exclusively for the purposes of residential development, for Lot 4, Block 223 (known as

Capitol Area Development Authority Residential Site 21) surrounded by N Street on the north, 14th Street on the east, 120 feet west of 14th Street on the west, and one quarter of a half block to the south of N Street on the south.

(b) Notwithstanding any other provision of law, development on the city blocks surrounding the Stanford Mansion located at 802 N Street, and the Heilbron Mansion located at 704 O Street, shall be environmentally sensitive to these historic mansions. Copies of environmental documents for any development on the city blocks surrounding these mansions shall be distributed by the State Clearinghouse within the Governor's Office of Planning and Research to the State Office of Historic Preservation, and other agencies as required by the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code.

SEC. 2.4. Section 8180 of the Government Code is amended to read:

8180. The following terms, used in this article, shall have the following meanings:

(a) "Project area" means the area within the City of Sacramento which is bounded on the north by "L" Street, on the south by "R" Street, excepting that portion lying between 11th and 12th Streets which southern boundary shall be the alley lying between "R" and "S" Street on the west by Seventh Street, and on the east by 17th Street, excepting any portion of such area which is within the boundaries of a redevelopment project area adopted prior to April 1, 1979, by the City of Sacramento pursuant to the Community Redevelopment Law.

The streets bounding the project area are included therein, and this does not constitute a change in, but is declaratory of the existing law.

Pursuant to an agreement between the authority and the City of Sacramento, the boundaries of the project area established by this section may be amended by a resolution adopted by the authority to include all or any portion of the blocks bounded on the west by 5th Street, on the north by "N" Street, on the east by 7th Street, and on the south by "P" Street, upon the effective date of an ordinance adopted by the City of Sacramento amending the boundaries of the city's redevelopment project area to detach all or any portion of those blocks from the city's redevelopment project area for the purpose of including that area within the project area established by this section. For the purposes of paragraph (1) of subdivision (b) of Section 8183, the assessed value of the property detached from the city's redevelopment project area and included within the project area established by this section shall be that portion of the assessed value of that property upon which taxes were allocated to the taxing agencies immediately prior to the effective date of the resolution and shall exclude that portion of the assessed value of that property upon which taxes were allocated to the city's redevelopment agency.

In the event that the project area is not amended as described in this section, the city's redevelopment agency may satisfy any replacement housing obligations that result from the development of any portion of the blocks bounded on the west by 5th Street, on the north by "N" Street, on the east by 7th Street, and on the south by "P" Street within that portion of the project area agreed to by the authority and the City of Sacramento.

(b) "Redevelopment plan" means the Capitol Area Plan approved by the Director of General Services on March 15, 1977, and referred to in Section 8160, together with documents adopted pursuant to Section 8183.

(c) "Authority" means the Capitol Area Development Authority created by the joint powers agreement executed pursuant to Section 8169.4 by the Director of General Services of the State of California and the Mayor of the City of Sacramento on July 1, 1978.

SEC. 2.5. Section 23101 of the Government Code is amended to read:

23101. The boundaries of Alameda County are as follows:

Beginning at the southwest corner, being the common corner of San Mateo, Santa Clara, and Alameda; thence easterly along the northerly boundary of Santa Clara to the corner common to Santa Clara, San Joaquin, Stanislaus and Alameda; thence northwesterly and northerly along the boundary line between Alameda and San Joaquin, as described in the field notes of the survey of said line, as adopted by the Board of Supervisors of Alameda County, California, on February 6, 1869, to the corner common to Alameda, Contra Costa and San Joaquin; thence in a general westerly direction along the boundary line between Alameda and Contra Costa, as described in the field notes of the survey of said boundary line, filed November 19, 1877, in the office of the Clerk of Alameda County, to the most westerly point where said line is coincident with the line dividing the Rancho San Pablo from the Rancho San Antonio;

Thence westerly along the northerly boundary line of the Rancho San Antonio to its intersection thereof with the northeastern line of a 12-foot path, said intersection being on the corporate limits of the City of Oakland as said limits were established by Ordinance No. 1132, changing said limits, adopted May 14, 1991, by the city council of said city; thence northerly and northwesterly along said northeastern line and corporate limits from a tangent which bears north 28°43'22" east, on a curve to the left having a radius of 71 feet and arc length of 85.47 feet to a point of compound curvature; thence from a tangent which bears north 40°25' west, on a curve to the left having a radius of 306 feet and arc length of 121.06 feet to a point where said northeastern line, being also said corporate limits, intersects the northern line of Villanova Drive, 50 feet wide; thence continuing northwesterly along said northern line, being also said corporate limits, from a tangent which bears north 7°48'59" west, on a curve to the left having a radius of 200 feet and arc length of 241.06 feet; thence north 76°52'30" west 133.94 feet; thence tangent to the

last mentioned course, on a curve to the right having a radius of 175 feet and arc length 131.97 feet to a point of reverse curvature; thence from a tangent which bears north 33°40' west on a curve to the left having a radius of 200 feet and arc length of 151.33 feet to the intersection of said northern line, being also said corporate limits, with the corporate limits of the City of Oakland, being also the common boundary of Alameda and Contra Costa Counties, as same existed prior to Ordinance No. 1132, said intersection being a point in the aforementioned northerly boundary line of the Rancho San Antonio; thence continuing westerly along said northerly line to the initial point of the description thereof, as recorded in Liber "B" of patents, page 30, records of Alameda County; thence southwesterly in a direct line to a point in San Francisco Bay, said point being four and one-half statute miles due southeast of the northwest point of Golden Rock (also known as Red Rock); thence southeasterly in a direct line to a point from which the lighthouse on the most southerly point of Yerba Buena Island bears south 72 degrees W., 4,700 feet; thence southeasterly in a direct line to a point on the southerly line of T. 2 S., R. 4 W., M. D. B. & M., distant thereon two statute miles west of the southeast corner of said township, forming the corner common to San Francisco, San Mateo and Alameda; thence southeasterly along the eastern line of San Mateo to the place of beginning.

SEC. 3. Section 23119 of the Government Code is amended to read:

23119. The boundaries of Los Angeles County are as follows:

Beginning at a point in the southwesterly boundary line of the State of California, said point being on the southerly prolongation of the westerly boundary line of Rancho Topanga Malibu Sequit; thence northerly along said prolongation and westerly line of said rancho to the northwesterly corner thereof; thence northeasterly in a direct line to corner number seven of the boundary of Rancho Simi; thence easterly along line number seven, northerly along line number eight, easterly along line number nine of the boundary of Rancho Simi to corner number ten of the boundary of Rancho Simi; thence following the boundary line as surveyed by E. T. Wright and J. T. Stow, county surveyors, in June and July, 1881, as shown on map recorded in book 43, page 25 et seq., miscellaneous records of Los Angeles County as follows: north 105.01 chains to a point; thence north 07 degrees 29 minutes W., 157.50 chains to a point; thence north 21 degrees 57 minutes W., to a point in the north line of Sec. 4, T. 8 N., R. 19 W., S. B. M., distant westerly along said north line 1,400 feet, more or less, from the northeast corner of said Sec. 4, said point being common to the boundaries of Kern, Ventura and Los Angeles; thence east along the north line of T. 8 N., S. B. M., to the northeast corner of T. 8 N., R. 8 W., S. B. M., said corner being a point common to the boundaries of San Bernardino, Kern, and Los Angeles;

Thence south along the range line between R. 7 and 8 W., to the southeast corner of T. 6 N., R. 8 W., S. B. M.; thence east along the

township line between T. 5 and 6 N., to the northeast corner of T. 5 N., R. 8 W., S. B. M.; thence south along the range line between R. 7 and 8 W., to a point in the east line of Sec. 12, T. 4 N., R. 8 W., S. B. M., distant southerly 940 feet, measured along said east line, from the northeast corner of said Sec. 12; thence southerly in a direct line to the summit of San Antonio Peak; thence southerly along a straight line which passes through the northwest corner of the Rancho Cucamonga to a point in said straight line distant south 11°51'04" west thereon, 333.81 feet from its intersection with the north line of Tract 37, T. 2 N., R. 7 W., S. B. M.; thence north 25°38'59" west, 15.06 feet; thence south 70°15'29" west, 47.76 feet; thence south 09°57'30" east, 62.51 feet; thence south 34°17'02" east, 36.94 feet to said straight line; thence continuing southerly along said straight line to a point in said straight line distant north 11°51'04" east, 547.37 feet from its intersection with the south line of said Tract 37; thence south 84°57'02" west, 35.25 feet; thence south 23°47'27" west, 75.70 feet to the beginning of a nontangent curve concave to the southwest having a radius of 181.00 feet and to which beginning a radial line bears south 29°24'24" west; thence southeasterly along said curve through a central angle of 12°08'32" an arc distance of 38.36 feet to the beginning of a reverse curve concave to the northeast having a radius of 169.00 feet; thence southeasterly 16.07 feet along said curve through a central angle of 05°26'52" to said straight line; thence southwest in a direct line to the northwest corner of Rancho Cucamonga, thence southwesterly along the northwesterly boundary line of Rancho Cucamonga to the most westerly corner of Rancho Cucamonga; thence southwesterly in a direct line to the northeast corner of Rancho San Jose; thence southwesterly and westerly along the easterly and southerly boundary lines of Rancho San Jose to the range line between R. 8 and 9 W. in T. 2 S., S. B. M.;

Thence south along the range line between R. 8 and 9 W., to the southeast corner of Sec. 12, T. 2 S., R. 9 W., S. B. M., said corner being an angle point in the boundary line of the Rancho Santa Ana del Chino; thence westerly, southwesterly, southerly, easterly, and southerly along the boundary line of the Rancho Santa Ana del Chino to the southwest corner of the Rancho Santa Ana del Chino, said corner being the center of Sec. 35, T. 2 S., R. 9 W., S. B. M.; thence southeasterly in a straight line to a point in the south line of Sec. 36, T. 2 S., R. 9 W., S. B. M., distant 52.84 feet easterly thereon from the southwest corner of said Sec. 36, said point being common to the boundaries of San Bernardino, Orange, and Los Angeles; thence westerly along the northern line of Orange to the southwesterly boundary line of the State of California; thence northwesterly along the southwesterly boundary line of the State of California to the point of beginning. Also the islands of Santa Catalina and San Clemente.

SEC. 4. Section 23130 of the Government Code is amended to read:

23130. The boundaries of Orange County are as follows:

Beginning at the northwest corner of San Diego County at a point

in the Pacific Ocean opposite San Mateo point; thence northerly along the San Diego County line to the southerly line of the Rancho Mission Viejo as shown on the survey on file in book 8, pages 34 through 46 inclusive of Records of Survey in the office of the County Recorder of Orange County;

Thence, easterly and northeasterly to an angle point therein, said point being Rancho Mission Viejo Corner No. 7, as shown on said Record of Survey; thence northerly 12,693.95 feet along the northwestern boundary of San Diego County to the southwest corner of Section 33, T. 7 S., R. 6 W., said point being also the most southwest corner of Riverside County; thence northerly 1,324.46 feet along the western boundary of said Riverside County to the southwesterly corner of Government Lot 3, Fractional Section 33, T. 7 S., R. 6 W., S.B.M., as shown on that survey on file in book 122, pages 17 and 18 of Records of Survey in the office of the County Recorder of Orange County;

Thence leaving said western boundary south 89°25'11" east, 2,042.68 feet to the southeast corner of the NE.¼ of the SE. ¼ of said Section 33; thence north 01°00'50" east, 1,320.33 feet to the northeast corner of the NE. ¼ of the SE. ¼ of said Section 33; thence north 00°27'14" east, 2,647.46 feet to the northeast corner of said Section 33; thence along the north line of said section north 89°16'14" west, 2,086.39 feet to the northwest corner of Government Lot 1 of said section, being a point on the existing western boundary of said Riverside County;

Thence along said boundary of Riverside County northerly, northeasterly, northwesterly, westerly, northerly, westerly and northwesterly to a point on the south line of Section 36, T. 3 S., R. 8 W., as shown on that survey on file in book 131, pages 24 and 25 of Records of Survey in the office of the Orange County Recorder, said point lying distant therein north 89°05'38" west 151.58 feet from the southeast corner of said Section 36;

Thence leaving said existing boundary of Riverside County and along said south line north 89°05'38" west, 2,484.00 feet; thence continuing along said south line, north 89°07'27" west, 818.46 feet to the easterly line of the Rancho Lomas de Santiago; thence along said easterly line north 02°53'27" west, 3,273.18 feet to a point on a nontangent curve, concave to the northwest and having a radius of 1,550.00 feet, a radial from said point bears north 14°05'30" west; thence easterly, leaving said east line, along said curve through a central angle of 15°01'17" and arc length of 406.35 feet; thence nontangent to said curve, south 84°32'29" east, 155.61 feet; thence north 65°40'06" east, 75.15 feet; thence north 48°16'56" east, 150.70 feet; thence north 68°49'57" east, 35.37 feet to said existing boundary of Riverside County;

Thence northwesterly along the said boundary to the corner common to Riverside, San Bernardino, and Orange Counties; thence northwesterly along the southwest boundary of San Bernardino County to the point of intersection of said boundary with the

southerly line of T. 2 S., R. 9 W., being also the corner common to San Bernardino and Los Angeles Counties; thence westerly along the township line between T. 2 and 3 S., to the corner common to T. 2 and 3 S., R. 10 and 11 W.; thence southerly along the range line between R. 10 and 11 W., to the southeast corner of Section 13, T. 3 S., R. 11 W., in the Rancho Los Coyotes; thence in a general southwesterly direction along section lines, quarter section lines and quarter quarter section lines in the Rancho Los Coyotes, as follows: westerly along the section line to the quarter corner on the south line of said Section 13; thence southerly along the quarter section line to the center of Section 24, T. 3 S., R. 11 W.; thence westerly along the quarter section line to the quarter corner on the west line of said Section 24; thence southerly along the section line to the southwest corner of said Section 24; thence westerly along the section line to the quarter corner on the north line of Section 26, T. 3 S., R. 11 W.; thence southerly along the quarter section line to the center of said Section 26;

Thence westerly along the quarter section line to the quarter corner on the west line of said Section 26; thence southerly along the section line to the southwest corner of said Section 26; thence westerly along the section line to the northeast corner of Section 33, T. 3 S., R. 11 W.; thence southerly along the section line to the quarter corner on the east line of said Section 33; thence westerly along the quarter section line to the center of said Section 33; thence southerly along the quarter section line to the northeast corner of the SE. ¼ of the SW. ¼ of said Section 33; thence westerly along the quarter quarter section line to the center of the SW. ¼ of said Section 33; thence southerly along the quarter quarter section line to the south line of said Section 33; thence westerly along the township line between T. 3 and 4 S., to the northeast corner of Section 5, T. 4 S., R. 11 W.; thence southerly along the section line to the northeast corner of the SE. ¼ of said Section 5; thence westerly along the quarter section line to the northwest corner of the NE. ¼ of the SE. ¼ of said Section 5; thence southerly along the quarter quarter section line to the center of the SE. ¼ of said Section 5; thence westerly along the quarter quarter section line to the westerly line of the SE. ¼ of said Section 5; thence southerly along the quarter section line to the quarter corner on the south line of said Section 5; thence westerly along the section line to the northeast corner of the NW. ¼ of the NW. ¼ of Section 8, T. 4 S., R. 11 W.;

Thence southerly along the quarter quarter section lines to the northeast corner of the SW. ¼ of the SW. ¼ of said Section 8; thence southwesterly in a straight line to a point on the south line of the Moody Creek Channel as shown on that survey on file in book 120, page 5 of Records of Survey in the office of the Recorder of Orange County, said point being on a nontangent curve, concave southeasterly and having a radius of 950.00 feet, a radial from said point bears south 03°41'24" east; thence westerly along said south line and said curve through a central angle of 26°34'39" and an arc length

of 440.67 feet to its point of intersection with the east line of the Coyote Creek Channel, said point being on a nontangent curve concave northwesterly and having a radius of 5,200.00 feet, a radial from said point bears north 75°11'46" west; thence southwesterly along said easterly line and said curve through a central angle of 03°10'38" and an arc length of 288.36 feet; thence continuing along said easterly line, tangent to said curve, south 17°58'52" west, 132.27 feet to a point on the existing boundary of Los Angeles County; thence southwesterly along said boundary in a straight line to the southwest corner of Section 8, T. 4 S., R. 11 W. said corner also being Los Angeles/Orange County Corner No. 11 as shown on Los Angeles County Surveyor's Map No. 8175 on file in the office of the Surveyor of the County of Los Angeles;

Thence south 00°11'50" east, along the section line to a point on the boundary line between Rancho Los Coyotes and Rancho Los Alamitos, said point also being Los Angeles/Orange County Corner No. 10;

Thence south 59°07'40" west, a distance of 3,391.48 feet to Los Angeles/Orange County Corner No. 9;

Thence south 39°48'20" west, a distance of 5,650.97 feet to Los Angeles/Orange County Corner No. 8;

Thence south 11°36'55" west, a distance of 2,241.41 feet to Los Angeles/Orange County Corner No. 7;

Thence south 27°55'55" west, a distance of 8,375.40 feet to Los Angeles/Orange County Corner No. 6;

Thence south 31°22'50" east, a distance of 1,296.21 feet to Los Angeles/Orange County Corner No. 5;

Thence south 27°12'00" east, a distance of 2,106.10 feet to Los Angeles/Orange County Corner No. 4;

Thence south 16°46'45" east, a distance of 1,444.82 feet to Los Angeles/Orange County Corner No. 3;

Thence south 2°48'35" east, a distance of 2,207.94 feet to Los Angeles/Orange County Corner No. 2;

Thence south 57°10'40" west, a distance of 8,238.78 feet to Los Angeles/Orange County Corner No. 1;

Thence south 33°00'00" west, a distance of 622.43 feet to a point on the northeasterly line of block 59, Alamitos Bay tract, as shown on the map recorded in map book 5, page 137, on file in the office of the Recorder of the County of Los Angeles, distant thereon south 57°50'45" east, a distance of 428.91 feet from the most northerly corner of said block 59; thence continuing south 33°00'00" west, a distance of three miles, more or less to the southwesterly boundary line of the State of California (the boundary line between Los Angeles and Orange hereinabove described and established being shown on said county surveyor's map No. 8175 ; and likewise on map No. 300 on file in the office of the Surveyor of Orange County); thence southeasterly along the state line to the point of beginning.

SEC. 5. Section 23133 of the Government Code is amended to read:

23133. The boundaries of Riverside County are as follows:

Beginning at the corner common to Orange, San Bernardino, and Riverside Counties, being located at the point of intersection of the easterly boundary of the El Canon de Santa Ana Rancho with course number seven of the boundary line, established by joint survey in December 1876, and January 1877, as the line between Los Angeles and San Bernardino Counties; thence southeasterly along said line of survey to the most northerly point of that survey on file in Book 87 of Records of Survey, at Pages 60 through 61, in the office of the County Recorder of Riverside County; thence south 68°49'57" west a distance of 35.37 feet; thence south 48°16'56" west a distance of 150.70 feet; thence south 65°40'06" west a distance of 75.15 feet; thence north 84°32'29" west a distance of 155.61 feet to the beginning of a nontangent curve, concave to the northwest, with a radial bearing north 29°06'47" west and a radius of 1,550.00 feet; thence along said curve through an angle of 15°01'17" a distance of 406.35 feet to the easterly line of the Rancho Lomas de Santiago; thence south 02°53'27" east, along said easterly line, a distance of 3,273.18 feet to the south line of Sec. 36 T. 3 S., 8 W., S. B. B. & M.; thence south 89°07'27" east, along said south line, a distance of 818.46 feet; thence south 89°05'38" east, continuing along said south line, a distance of 2,484.00 feet to the southerly most point on said survey on file in Book 87 of Records of Survey, at Pages 60 through 61, in the office of the County Recorder of Riverside County, said point also being on said line of survey between Los Angeles and San Bernardino Counties; thence continuing southeasterly on said line of survey to the point of beginning of said joint survey, it being upon the northern boundary of San Diego County, as it was then established; thence southwesterly to a point on the eastern line of Rancho Mission Viejo or La Paz two miles north of the south boundary of T. 7 S., S. B. B. & M.; thence south along said boundary to the point of intersection of said line and the northwest corner of Lot 1 of Sec. 33, T. 7 S., R. 6 W., S. B. B. & M.; thence south 89°16'14" east along the north line of said Lot 1 and the north section line of said Sec. 33 a distance of 2,086.39 feet to the northeast section corner thereof; thence south 00°27'14" west, along the east section line of said Sec. 33, a distance of 2,647.46 feet to the east quarter corner of said Sec. 33; then south 01°00'50" west, continuing along said east section line, a distance of 1,320.33 feet to the southeast corner of the northeast quarter of the southeast quarter of said section; thence north 89°25'11" west, along the south line of the northeast quarter of the southeast quarter and the south line of Lot 3 of said Sec. 33, a distance of 2,042.68 feet to the eastern boundary line of Rancho Mission Viejo or La Paz; thence 00°00'35" east, along said boundary, a distance of 1,324.46 feet to the point of intersection with said line with the township line between T. 7 S. and T. 8 S., S. B. B. & M.; thence easterly along said township line to its intersection with the western boundary of Santa Rosa Rancho; thence southerly along the boundary of said rancho to where said boundary of said rancho intersects the range line between T. 8 S., T.

3 W., and T. 8 S., T. 4 W.; thence south on said range line to the point of intersection of the said line with the second standard parallel south; thence east along said parallel to its intersection with the interstate boundary between the States of Arizona and California on the centerline of the Colorado River, said interstate boundary and centerline being described in "Interstate Compact Defining the Boundary Between the States of Arizona and California", a certified copy of which is recorded and filed in the office of the County Recorder of Riverside County; thence northerly along said interstate boundary to its point of intersection with the east and west centerline of T. 1 S., R. 24 E., S. B. B. & M., or the prolongation thereof; thence westerly along the section lines to the southeast corner of Sec. 17, T. 1 S., R. 16 E., S. B. B. & M.; thence south to the southeast corner of Sec. 32, same township and range, said point being on the township line between T. 1 and 2 S., S. B. B. & M.; thence west on said township line to the northeast corner of T. 2 S., R. 1 W., S. B. B. & M.; thence south to the southeast corner of Sec. 12, T. 2 S., R. 1 W., S. B. B. & M.; thence west to the southwest corner of Sec. 8, T. 2 S., R. 3 W., S. B. B. & M.; thence north to the northwest corner of said Sec. 8; thence west to the quarter corner of the south line of Sec. 2, T. 2 S., R. 5 W., S. B. B. & M.; thence north to the quarter corner on the north line of said Sec. 2; thence west to the southwest corner of Sec. 31, T. 1 S., R. 6 W.; thence south along the section lines to the northern boundary of the Jurupa Rancho; thence southwesterly along said north boundary to the northwest corner of said Rancho; thence south along the west boundary of said Jurupa Rancho to the quarter corner on the east line of Sec. 9, T. 3 S., R. 7 W., thence west in a direct line to the center of Sec. 7, same township and range; thence south in a direct line, to the quarter corner on the south line of Sec. 19, T. 3 S., R. 7 W., thence west to the east boundary of the El Canon de Santa Ana Rancho; thence southerly along the easterly boundary of said Rancho to the place of beginning.

That portion of the Riverside County boundary line which coincides with the Arizona-California Interstate Boundary is shown on a series of Planimetric Maps appearing in Exhibit "A" of the above-mentioned Interstate Compact.

SEC. 6. Section 24000 of the Government Code is amended to read:

24000. The officers of a county are:

(a) A district attorney.

(b) A sheriff.

(c) A county clerk.

(d) A controller.

(e) An auditor, who shall be ex officio controller.

(f) A treasurer.

(g) A recorder.

(h) A license collector.

(i) A tax collector, who shall be ex officio license collector.

(j) An assessor.

(k) A superintendent of schools.
(*l*) A public administrator.
(m) A coroner.
(n) A surveyor.
(o) Members of the board of supervisors.
(p) A county veterinarian.
(q) A fish and game warden.
(r) A county librarian.
(s) A county health officer.
(t) An administrative officer.
(u) A director of finance.
(v) A road commissioner.
(w) A public guardian.
(x) Such other officers as are provided by law.

SEC. 6.3. Section 24250 of the Government Code is amended to read:

24250. Sheriffs, clerks, recorders, treasurers, and auditors, shall have their offices at the county seat in the courthouse, hall of records, jail, or other buildings. However, these officials may situate their offices outside the county seat, provided that the offices are conveniently located and easily accessible to the public, and notice of their location is prominently displayed in the county administration building and other appropriate county facilities.

SEC. 6.5. Section 24256 of the Government Code is amended to read:

24256. Whenever the law specifies that an office or building shall be located at the county seat and an incorporated city has been designated as the county seat, the location of that office or building may be either within or in the immediate vicinity of the corporate limits of said city. However, the prescribed offices and buildings may be situated outside the county seat or its immediate vicinity, provided that those offices and buildings are conveniently located and easily accessible to the public, and notice of their location is prominently displayed in the county administration building and other appropriate county facilities.

SEC. 7. Section 24304 of the Government Code is amended to read:

24304. Notwithstanding the provisions of Section 24300, in counties of the 13th to 58th classes, inclusive, the board of supervisors by ordinance may consolidate the duties of certain of the county offices in one or more of these combinations:

(a) Sheriff and tax collector.
(b) Auditor and recorder.
(c) County clerk, auditor, and recorder.
(d) County clerk and public administrator.
(e) County clerk and recorder.
(f) County clerk and auditor.
(g) Treasurer and tax collector.
(h) Treasurer and recorder.

(i) Treasurer and assessor.
(j) Treasurer and public administrator.
(k) Public administrator and coroner.
(*l*) District attorney and public administrator.
(m) District attorney and coroner.
(n) Sheriff and coroner.
(o) Sheriff and public administrator.
(p) County agricultural commissioner and county sealer of weights and measures.
(q) County clerk and tax collector.
(r) Treasurer, tax collector, and recorder.
(s) Sheriff, tax collector, and coroner.
(t) Coroner and health officer.
(u) Road commissioner and surveyor. A county may create an office entitled public works director, combining the duties of road commissioner and surveyor and any other compatible duties not legally required to be performed by another county officer.
(v) Sheriff, coroner, and public administrator.
(w) Treasurer, tax collector, and public administrator.
(x) County clerk, assessor, and recorder.
(y) Assessor and recorder.
(z) Tax collector/county clerk and treasurer.

SEC. 9. Section 25332 of the Government Code is amended to read:

25332. (a) The boards of supervisors of Butte, Los Angeles, Merced, Orange, San Bernardino, and Ventura Counties may enter into contracts with private enterprise to provide services that require special experience, education, training, or other capabilities which the county possesses. In addition, the boards of supervisors of Butte, Los Angeles, Merced, Orange, San Bernardino, and Ventura Counties may charge a fee for optional services and enhanced services provided to the public which require special experience, education, training, or other capability which the county possesses.

These services may include, but shall not be limited to, any of the following:

(1) The production and dissemination of published documents, either on an isolated basis or on a regular or semiregular basis resulting from the compilation, organization, and dissemination of data from a variety of departmental and public records retained by county departments.

(2) The production and dissemination of training materials, or provision of consulting services, resulting from the special or unique experiences derived from the magnitude, diversity, or distinctive nature of the county's services such as law enforcement, fire protection, public health care, welfare and public social programs, public works projects, and the acquisition and management of real and personal property.

(3) The expedited retrieval or copying, or both, after regular hours, of officially recorded documents that are open to public

review and research during regular business hours.

(b) Prior to entering into a contract pursuant to this section, the board of supervisors shall find, based on evidence in record, that the provision of the special service described in the proposed contract will not adversely impact the provision of similar services by private sector companies or individuals within the county.

SEC. 9.5. Section 25521.5 is added to the Government Code, to read:

25521.5. The Board of Supervisors of the County of Riverside may transfer to the Riverside County Regional Park and Open Space District, without a vote of the electors of the county first being taken, any real or personal property belonging to the county.

SEC. 10. Section 25845 of the Government Code is amended to read:

25845. (a) The board of supervisors, by ordinance, may establish a procedure for the abatement of a nuisance. The ordinance shall, at a minimum, provide that the owner of the parcel, and anyone known to the board of supervisors to be in possession of the parcel, be given notice of the abatement proceeding and an opportunity to appear before the board of supervisors and be heard prior to the abatement of the nuisance by the county. However, nothing in this section prohibits the summary abatement of a nuisance upon order of the board of supervisors, or upon order of any other county officer authorized by law to summarily abate nuisances, if the board or officer determines that the nuisance constitutes an immediate threat to public health or safety.

(b) If the owner fails to pay the costs of the abatement upon demand by the county, the board of supervisors may order the cost of the abatement to be specially assessed against the parcel. The assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as are provided for ordinary county taxes. All laws applicable to the levy, collection, and enforcement of county taxes are applicable to the special assessment.

(c) If the board of supervisors specially assesses the cost of the abatement against the parcel, the board also may cause a notice of abatement lien to be recorded. The notice shall, at a minimum, identify the record owner or possessor of property, set forth the last known address of the record owner or possessor, set forth the date upon which abatement of the nuisance was ordered by the board of supervisors and the date the abatement was complete, and include a description of the real property subject to the lien and the amount of the abatement cost.

(d) However, if the board of supervisors does not cause the recordation of a notice of abatement lien pursuant to subdivision (c), and any real property to which the costs of abatement relates has been transferred or conveyed to a bona fide purchaser for value, or a lien on a bona fide encumbrancer for value has been created and

attaches to that property, prior to the date on which the first installment of county taxes would become delinquent, then the cost of abatement shall not result in a lien against that real property but shall be transferred to the unsecured roll for collection.

(e) Recordation of a notice of abatement lien pursuant to subdivision (c) has the same effect as recordation of an abstract of a money judgment recorded pursuant to Article 2 (commencing with Section 697.310) of Chapter 2 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure. The lien created has the same priority as a judgment lien on real property and continues in effect until released. Upon order of the board of supervisors, or any county officer authorized by the board of supervisors to act on its behalf, an abatement lien created under this section may be released or subordinated in the same manner as a judgment lien on real property may be released or subordinated.

(f) In counties with a population of 1,000,000 or more, the board of supervisors may delegate the hearing required by subdivision (a), prior to abatement of a public nuisance, to a hearing board designated by the board of supervisors. The hearing board shall make a written recommendation to the board of supervisors. The board of supervisors may adopt the recommendation without further notice of hearing, or may set the matter for a de novo hearing before the board of supervisors.

SEC. 10.3. Section 26990 is added to the Government Code, to read:

26990. (a) Notwithstanding any other provision of law, with the exception of the Revenue and Taxation Code, commencing with the 1993–94 fiscal year, the duties and responsibilities previously conferred on the auditor, controller, or director of finance of any county to any independent local agency other than the county may be eliminated or modified if the independent local agency agrees to and is able to assume those duties and responsibilities and the auditor, controller, or director of finance concurs in writing to transfer those duties and responsibilities to the independent local agency.

(b) As used in this section, "auditor," "controller," and "director of finance" refers to those county officers provided by Chapter 3.5 (commencing with Section 26880), Chapter 4 (commencing with Section 26900), Chapter 4.5 (commencing with Section 26970), and Chapter 4.6 (commencing with Section 26980) of this part. Those terms shall not refer to a county treasurer described in Chapter 5 (commencing with Section 27000) of this part.

SEC. 10.5. Section 27008 of the Government Code is amended to read:

27008. (a) The treasurer shall not receive money into the treasury or for deposit with him or her as treasurer, unless it is accompanied by the certificate of the auditor.

(b) Notwithstanding subdivision (a), the auditor and treasurer may establish alternate control procedures.

SEC. 11. Section 29088 of the Government Code is amended to read:

29088. (a) After the conclusion of the hearing, and not later than August 30 of each year, and after making any revisions of, deductions from, or increases or additions to, the proposed budget it deems advisable during or after the public hearing, the board shall by resolution adopt the budget as finally determined. Increases or additions shall not be made after the public hearing, unless the items were proposed in writing and filed with the clerk of the board before the close of the public hearing or unless approved by the board by four-fifths vote. The changes made pursuant to subdivision (b) of Section 29064 may be recorded as changes to the final budget.

(b) Whenever the state budget is enacted after July 1, the board may, by resolution, extend the date specified by subdivision (a) for a period not to exceed 60 days from the date of the enactment of the state budget or October 2, whichever is later, or 15 days beyond the date specified in Section 29080.

SEC. 12. Section 36934 of the Government Code is amended to read:

36934. Ordinances shall not be passed within five days of their introduction, nor at other than a regular meeting or at an adjourned regular meeting. However, an urgency ordinance may be passed immediately upon introduction and either at a regular or special meeting. Except when, after reading the title, further reading is waived by regular motion adopted by majority vote all ordinances shall be read in full either at the time of introduction or passage. When ordinances, other than urgency ordinances, are altered after introduction, they shall be passed only at a regular or at an adjourned regular meeting held at least five days after alteration. Corrections of typographical or clerical errors are not alterations within the meaning of this section.

SEC. 12.3. Section 37110 of the Government Code is amended to read:

37110. The legislative body may spend money from the general fund for music and promotion, including promotion of sister city and town affiliation programs.

SEC. 12.5. Section 40101 of the Government Code is repealed.

SEC. 12.7. Section 53080.1 of the Government Code is amended to read:

53080.1. (a) Any resolution adopting or increasing a fee, charge, dedication, or other requirement pursuant to Section 53080, for application to residential, commercial, or industrial development, shall be enacted in accordance with Chapter 5 (commencing with Section 66000) of Division 1 of Title 7, with Section 54994.1, and with the procedures for mailed notice set forth in Section 54992. The adoption, increase, or imposition of any fee, charge, dedication, or other requirement pursuant to Section 53080 shall not be subject to Division 13 (commencing with Section 21000) of the Public Resources Code. The adoption of, or increase in, the fee, charge,

dedication, or other requirement shall be effective no sooner than 60 days following the final action on that adoption or increase, except as specified in subdivision (b).

(b) Without following the procedure otherwise required for adopting or increasing a fee, charge, dedication, or other requirement, the governing board of a school district may adopt an urgency measure as an interim authorization for a fee, charge, dedication, or other requirement, or increase in a fee, charge, dedication, or other requirement, where necessary to respond to a current and immediate threat to the public health, welfare, or safety. The interim authorization shall require a four-fifths vote of the governing board for adoption, and shall contain findings describing the current and immediate threat to the public health, welfare, or safety. The interim authorization shall have no force or effect on and after a date 30 days after its adoption. After notice and hearing in accordance with subdivision (a), the governing board, upon a four-fifths vote of the board, may extend the interim authority for an additional 30 days. Not more than two extensions may be granted.

(c) Upon adopting or increasing a fee, charge, dedication, or other requirement pursuant to subdivision (a) or (b), the school district shall transmit a copy of the resolution to each city and each county in which the district is situated, accompanied by all relevant supporting documentation and a map clearly indicating the boundaries of the area subject to the fee, charge, dedication, or other requirement. The school district governing board shall specify, pursuant to that notification, whether or not the collection of the fee or other charge is subject to the restriction set forth in subdivision (a) of Section 66007.

(d) Any party on whom a fee, charge, dedication, or other requirement has been directly imposed pursuant to Section 53080 may protest the establishment or imposition of that fee, charge, dedication, or other requirement in accordance with Section 66020, except that the procedures set forth in Section 66021 are deemed to apply, for this purpose, to commercial and industrial development, as well as to residential development.

(e) In the case of any commercial or industrial development, the following procedures shall also apply:

(1) The school district governing board shall, in the course of making the findings required under subdivisions (a) and (b) of Section 66001, do all of the following:

(A) Make the findings on either an individual project basis or on the basis of categories of commercial or industrial development. Those categories may include, but are not limited to, the following uses: office, retail, transportation, communications and utilities, light industrial, heavy industrial, research and development, and warehouse.

(B) Conduct a study to determine the impact of the increased number of employees anticipated to result from the commercial or industrial development upon the cost of providing school facilities

within the district. For the purpose of making that determination, the study shall utilize employee generation estimates that are calculated on either an individual project or categorical basis, in accordance with subparagraph (A). Those employee generation estimates shall be based upon commercial and industrial factors within the district or upon, in whole or in part, the applicable employee generation estimates set forth in the January 1990 edition of "San Diego Traffic Generators," a report of the San Diego Association of Governments.

(C) The governing board shall take into account the results of that study in making the findings described in this subdivision.

(2) In addition to any other requirement imposed by law, in the case of any development project against which a fee, charge, dedication, or other requirement is to be imposed pursuant to Section 53080 on the basis of a category of commercial or industrial development, as described in paragraph (1), the governing board shall provide a process that permits the party against whom the fee, charge, dedication, or other requirement is to be imposed the opportunity for a hearing to appeal that imposition. The grounds for that appeal include, but are not limited to, the inaccuracy of including the project within the category pursuant to which the fee, charge, dedication, or other requirement is to be imposed, or that the employee generation or pupil generation factors utilized under the applicable category are inaccurate as applied to the project. The party appealing the imposition of the fee, charge, dedication, or other requirement shall bear the burden of establishing that the fee, charge, dedication, or other requirement is improper.

SEC. 13. Section 53534 of the Government Code is amended to read:

53534. Any provision of law to the contrary notwithstanding, a city, county, or city and county may enter into contracts commonly known as "interest rate swap agreements" or "forward payment conversion agreements" with any person providing for the exchange of payments between the person and the city, county, or city and county, including, without limitation, contracts providing for the exchange of fixed interest payments for floating payments or floating interest payments for fixed payments, or a combination thereof. The contracts may be made upon the terms and conditions established by the legislative body of the city, county, or city and county. The authority conferred by this section includes the authority to enter into any and all contracts incident to the exercise of the authority conferred by this section including, without limitation, contracts to obtain credit enhancement devices and contracts for the performance of professional services. However, these contracts may be made only if all securities or bonds included in the contracts are rated in one of the three highest rating categories by two nationally recognized rating agencies selected by the legislative body of the city, county, or city and county, and if there has been receipt, from any rating agency rating the bonds, of written evidence that the

contract will not adversely affect the rating.

SEC. 14. Section 53901 of the Government Code is amended to read:

53901. Unless exempted by the county auditor 60 days after the beginning of its fiscal year, every local agency, including every special purpose assessing or taxing district with the county shall file with the county auditor of the county in which it conducts its principal operations, a copy of its annual budget. The county auditor shall hold on file the annual budget of such special purpose assessing or taxing district or local agency for public inspection at all reasonable hours. If a local agency or special purpose assessing or taxing district does not have a formal budget, it shall file a listing of its anticipated revenues, together with its expenditures and expenses for the fiscal year in progress. The county auditor shall hold on file such statement for public inspection at all reasonable hours.

SEC. 14.3. Section 56844 of the Government Code is amended to read:

56844. Any change of organization or reorganization may provide for, or be made subject to one or more of, the following terms and conditions. However, none of the following terms and conditions shall directly regulate land use, property development, or subdivision requirements:

(a) The payment of a fixed or determinable amount of money, either as a lump sum or in installments, for the acquisition, transfer, use or right of use of all or any part of the existing property, real or personal, of any city, county, or district.

(b) The levying or fixing and the collection of any of the following, for the purpose of providing for any payment required pursuant to subdivision (a):

(1) Special, extraordinary, or additional taxes or assessments.

(2) Special, extraordinary, or additional service charges, rentals, or rates.

(3) Both taxes or assessments and service charges, rentals, or rates.

(c) The imposition, exemption, transfer, division, or apportionment, as among any affected cities, affected counties, affected districts, and affected territory of liability for payment of all or any part of principal, interest, and any other amounts which shall become due on account of all or any part of any outstanding or then authorized but thereafter issued bonds, including revenue bonds, or other contracts or obligations of any city, county, district, or any improvement district within a local agency, and the levying or fixing and the collection of any (1) taxes or assessments, or (2) service charges, rentals, or rates, or (3) both taxes or assessments and service charges, rentals, or rates, in the same manner as provided in the original authorization of the bonds and in the amount necessary to provide for that payment.

(d) If, as a result of any term or condition made pursuant to subdivision (c), the liability of any affected city, affected county, or affected district for payment of the principal of any bonded

indebtedness is increased or decreased, the term and condition may specify the amount, if any, of that increase or decrease which shall be included in, or excluded from, the outstanding bonded indebtedness of that entity for the purpose of the application of any statute or charter provision imposing a limitation upon the principal amount of outstanding bonded indebtedness of the entity.

(e) The formation of a new improvement district or districts or the annexation or detachment of territory to, or from, any existing improvement district or districts.

(f) The incurring of new indebtedness or liability by, or on behalf of, all or any part of any local agency, including territory being annexed to any local agency, or of any existing or proposed new improvement district within that local agency. The new indebtedness may be the obligation solely of territory to be annexed if the local agency has the authority to establish zones for incurring indebtedness. The indebtedness or liability shall be incurred substantially in accordance with the laws otherwise applicable to the local agency.

(g) The issuance and sale of any bonds, including authorized but unissued bonds of a local agency, either by that local agency or by a local agency designated as the successor to any local agency which is extinguished as a result of any change of organization or reorganization.

(h) The acquisition, improvement, disposition, sale, transfer, or division of any property, real or personal.

(i) The disposition, transfer, or division of any moneys or funds, including cash on hand and moneys due but uncollected, and any other obligations.

(j) The fixing and establishment of priorities of use, or right of use, of water, or capacity rights in any public improvements or facilities or of any other property, real or personal.

(k) The establishment, continuation, or termination of any office, department, or board, or the transfer, combining, consolidation, or separation of any offices, departments, or boards, or any of the functions of those offices, departments, or boards, if, and to the extent that, any of those matters is authorized by the principal act.

(*l*) The employment, transfer, or discharge of employees, the continuation, modification, or termination of existing employment contracts, civil service rights, seniority rights, retirement rights, and other employee benefits and rights.

(m) The designation of a city, county, or district, as the successor to any local agency which is extinguished as a result of any change of organization or reorganization, for the purpose of succeeding to all of the rights, duties, and obligations of the extinguished local agency with respect to enforcement, performance, or payment of any outstanding bonds, including revenue bonds, or other contracts and obligations of the extinguished local agency.

(n) The designation (1) of the method for the selection of members of the legislative body of a district or (2) the number of

those members, or (3) both, where the proceedings are for a consolidation, or a reorganization providing for a consolidation or formation of a new district and the principal act provides for alternative methods of that selection or for varying numbers of those members, or both.

(o) The initiation, conduct, or completion of proceedings on a proposal made under, and pursuant to, this division.

(p) The fixing of the effective date of any change of organization, subject to the limitations of Section 57202.

(q) Any terms and conditions authorized or required by the principal act with respect to any change of organization.

(r) The continuation or provision of any service provided at that time, or previously authorized to be provided by an official act of the local agency.

(s) The levying of assessments, including the imposition of a fee pursuant to Section 50029 or 66484.3 or the approval by the voters of general or special taxes. For the purposes of this section, imposition of a fee as a condition of the issuance of a building permit does not constitute direct regulation of land use, property development, or subdivision requirements.

(t) The extension or continuation of any previously authorized charge, fee, assessment, or tax by the local agency or a successor local agency in the affected territory.

(u) The transfer of authority and responsibility among any affected cities, affected counties, and affected districts for the administration of special tax and special assessment districts, including, but not limited to, the levying and collecting of special taxes and special assessments, including the determination of the annual special tax rate within authorized limits; the management of redemption, reserve, special reserve, and construction funds; the issuance of bonds which are authorized but not yet issued at the time of the transfer, including not yet issued portions or phases of bonds which are authorized; supervision of construction paid for with bond or special tax or assessment proceeds; administration of agreements to acquire public facilities and reimburse advances made to the district; and all other rights and responsibilities with respect to the levies, bonds, funds, and use of proceeds that would have applied to the local agency that created the special tax or special assessment district.

(v) Any other matters necessary or incidental to any of the terms and conditions specified in this section.

SEC. 14.5. Section 57025 of the Government Code is amended to read:

57025. (a) Upon receipt of a copy of the commission's resolution making determinations, the clerk of the conducting authority shall give notice of the hearing to be held on the proposal by publication pursuant to Sections 56153 and 56154 and by posting pursuant to Sections 56158 and 56159.

(b) The clerk shall also give mailed notice to each affected city,

affected district, or affected county, the commission, the chief petitioners, if any, all landowners owning land within any territory proposed to be formed into, or to be annexed to, or detached from, an improvement district within any city or district, and to persons requesting special notice, in accordance with the provisions of Sections 56155 to 56157, inclusive.

(c) In the case of a proposed annexation to a city of affected territory consisting of 75 acres or less, the clerk of the conducting authority shall give mailed notice to each landowner within the affected territory.

(d) In the case of a proposed change of organization or reorganization that would result in the extension of any previously authorized special tax or benefit assessment to the affected territory, the clerk of the conducting authority shall give mailed notice to each landowner within the affected territory.

SEC. 14.7. Section 57330 is added to the Government Code, to read:

57330. Any territory annexed to a city or district shall be subject to the levying or fixing and collection of any previously authorized taxes, benefit assessments, fees, or charges of the city or district.

SEC. 15. Section 65352.5 is added to the Government Code, to read:

65352.5. (a) The Legislature finds and declares that it is vital that there be close coordination and consultation between California's water supply agencies and California's land use approval agencies to ensure that proper water supply planning occurs in order to accommodate projects that will result in increased demands on water supplies.

(b) It is, therefore, the intent of the Legislature to provide a standardized process for determining the adequacy of existing and planned future water supplies to meet existing and planned future demands on these water supplies.

(c) Upon receiving, pursuant to Section 65352, notification of a city's or a county's proposed action to adopt or substantially amend a general plan, a public water system, as defined in Section 4010.1 of the Health and Safety Code, with 3,000 or more service connections, shall provide the planning agency with the following information, as is appropriate and relevant:

(1) The current version of its urban water management plan, adopted pursuant to Part 2.6 (commencing with Section 10610) of Division 6 of the Water Code.

(2) The current version of its capital improvement program or plan, as reported pursuant to Section 31144.73 or the Water Code.

(3) A description of the source or sources of the total water supply currently available to the water supplier by water right or contract, taking into account historical data concerning wet, normal, and dry runoff years.

(4) A description of the quantity of surface water that was purveyed by the water supplier in each of the previous five years.

(5) A description of the quantity of groundwater that was purveyed by the water supplier in each of the previous five years.

(6) A description of all proposed additional sources of water supplies for the water supplier, including the estimated dates by which these additional sources should be available and the quantities of additional water supplies that are being proposed.

(7) A description of the total number of customers currently served by the water supplier, as identified by the following categories and by the amount of water served to each category:

(A) Agricultural users.

(B) Commercial users.

(C) Industrial users.

(D) Residential users.

(8) Quantification of the expected reduction in total water demand, identified by each customer category set forth in paragraph (7), associated with future implementation of water use reduction measures identified in the water supplier's urban water management plan.

(9) Any additional information that is relevant to determining the adequacy of existing and planned future water supplies to meet existing and planned future demands on these water supplies.

SEC. 16. Article 5.5 (commencing with Section 65958) of Chapter 4.5 of Division 1 of Title 7 of the Government Code is repealed.

SEC. 17. Section 68096.1 of the Government Code is amended to read:

68096.1. (a) Any employee of a local agency who is obliged by a subpoena to attend a civil action or proceeding as a witness in litigation in a matter regarding an event or transaction which he or she perceived or investigated in the course of his or her duties, to which that local agency is not a party, shall receive the salary or other compensation to which he or she is normally entitled from that local agency during the time that he or she prepares for his or her response and appearance, during the time that he or she travels to and from the place where the court or other tribunal is located and while he or she is required to remain at that place pursuant to the subpoena. He or she shall also receive from that local agency the actual necessary and reasonable traveling expenses he or she incurred in complying with the subpoena.

(b) The party at whose request the subpoena is issued shall reimburse the local agency for the full cost incurred by the local agency in paying the employee his or her salary or other compensation and traveling expenses as provided for in this section, for each day that the employee is required to remain in attendance pursuant to the subpoena. The amount of one hundred fifty dollars ($150), together with the subpoena, shall be tendered to that local agency for each day that the employee is required to remain in attendance pursuant to the subpoena.

(c) If the actual expenses should later prove to be less than the amount tendered, the excess of the amount tendered shall be

refunded.

(d) If the actual expenses should later prove to be more than the amount tendered, the difference shall be paid to the local agency by the party at whose request the subpoena was issued.

(e) If a court continues a proceeding on its own motion, no additional witness fee shall be required prior to the issuance of a subpoena or the making of any order directing the employee to appear on the date to which the proceeding is continued.

(f) As used in this section, "local agency" means a city, county, city and county, special district, redevelopment agency, or any other political subdivision of the state.

SEC. 18. Section 6832 of the Harbors and Navigation Code, as added by Chapter 680 of the Statutes of 1991, is repealed.

SEC. 18.1. Section 6937 of the Harbors and Navigation Code is amended to read:

6937. The issuance of said bonds shall be authorized by ordinance adopted by five-sevenths of all the members of the board, to take effect upon its publication.

SEC. 18.3. Section 6944 of the Harbors and Navigation Code is amended 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.

(k) Any assessment levied pursuant to subdivision (a) or (d) to be payable in two or more installments over a period of greater than one

year shall be authorized by a five-sevenths or greater vote of all of the members of the board.

SEC. 18.5. Section 4730.8 is added to the Health and Safety Code, to read:

4730.8. Notwithstanding the provisions of Sections, 4730, 4730.1, and 4730.2, or any other provision of law, the governing board of a sanitation district in the County of Riverside that includes no territory within a city shall be the county board of supervisors.

The sanitation district may include all or a part of the territory of one or more previously existing sanitary districts that lie within the unincorporated territory of the county.

If the sanitation district includes any part of a sanitary district, the sanitation district shall not perform any of the functions of the sanitary district within the boundaries of the sanitary district if the sanitary district has performed that function within the 10 years immediately preceding January 1, 1994.

The sanitation district may handle, treat, and manage solid waste, as defined pursuant to the California Integrated Waste Management Act of 1989, Division 30 (commencing with Section 40000) of the Public Resources Code, in the same manner as the County of Riverside is authorized pursuant to that act.

SEC. 19. Section 6480.7 is added to the Health and Safety Code, to read:

6480.7. If a consolidation involving the Capistrano Beach Sanitary District and the Dana Point Sanitary District is approved, the board of directors of the consolidated district shall initially consist of 10 members who shall be the members of the boards of directors of the two districts as of the effective date of the consolidation. Notwithstanding Section 56844 of the Government Code, those board members shall determine within 60 days from the effective date of the consolidation whether the board of directors shall consist of 5, 7, 9, or 11 members, and they shall further determine within that time the persons who shall thereafter be members of the board of directors. If those board members determine that the board of directors shall consist of 11 members, they shall appoint the eleventh member whose term shall be the same as the terms of the members of the board of directors whose terms will first expire. Upon making those determinations, the members so selected shall notify by resolution the Board of Supervisors and the Registrar of Voters of the County of Orange of the number of members and the names of the persons who have been selected or appointed as members of the board of directors, and of the expiration dates of their terms of office. If that selection and appointment process is not completed within 60 days of the effective date of the consolidation, the Board of Supervisors of the County of Orange shall determine the number of members of the board of directors and shall select the members of the board of directors from among those 10 persons, or call a special election for the election of the directors of the consolidated district on the next available election date. In that event, those 10 persons

shall serve as the board of directors until the results of the special election are declared by the board of supervisors.

SEC. 20. Section 6487 of the Health and Safety Code is amended to read:

6487. All contracts, deeds, warrants, releases, receipts, and documents shall be signed in the name of the district by its president, and countersigned by its secretary, except that the board may, by resolution, authorize the district manager or other district employees specified by the board to sign contracts, warrants, releases, receipts, and similar documents in the name of the district.

SEC. 20.5. Section 13800 of the Health and Safety Code is amended to read:

13800. This part shall be known and may be cited as the Fire Protection District Law of 1987 or as the Bergeson Fire District Law.

SEC. 21. Section 13893 of the Health and Safety Code is amended to read:

13893. (a) On or before June 30 of each year, a district board shall publish a notice stating all of the following:

(1) That it has adopted a preliminary budget which is available for inspection at a time and place within the district specified in the notice.

(2) The date, time, and place when the board will meet to adopt the final budget and that any person may appear and be heard regarding any item in the budget or regarding the addition of other items.

(b) The notice shall be published pursuant to Section 6061 of the Government Code in at least one newspaper of general circulation in the district. The first publication shall be at least two weeks before the date of the meeting. If there is no newspaper published in the district, the notice shall be posted in three public places in the district at least two weeks before the date of the meeting.

SEC. 22. Section 9202 of the Public Contract Code is repealed.

SEC. 22.5. Section 20131 is added to the Public Contract Code, to read:

20131. Counties which employ purchasing agents may:

(a) Authorize the agent to employ state-licensed independent contractors and purchase materials, furnishings, and supplies used in the construction or repair of public works estimated as costing not more than six thousand five hundred dollars ($6,500) without the formality of obtaining bids, letting contracts, preparing specifications, and the other things required by this article.

(b) In counties containing a population of 500,000 or more, authorize the agent to purchase materials and supplies used in the construction or repair of public works estimated as costing not more than three thousand five hundred dollars ($3,500) without the formality of obtaining bids, letting contracts, preparing specifications, and the other things required by this article.

(c) Authorize the agent to purchase or contract for medical or surgical equipment or supplies, or for professional services, for a

county hospital without competitive bidding, so long as an appropriation for the costs of those purchases or contracts is included in the county budget.

As used in this subdivision, "medical or surgical equipment or supplies" means only equipment or supplies commonly, necessarily, and directly used by or under the direction of a physician and surgeon in caring for or treating a patient in a hospital.

SEC. 23. Section 20206.7 of the Public Contract Code is repealed.

SEC. 24. Section 20206.8 of the Public Contract Code is repealed.

SEC. 25. Section 20206.9 of the Public Contract Code is amended to read:

20206.9. The clerk shall furnish printed blanks for all proposals and contracts.

SEC. 25.5. 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 those 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 22300 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 the 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 those 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 the time that 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 (5) to (8), 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:	On behalf of Contractor:
Title	Title
Name	Name
Signature	Signature
Address	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	Contractor
Title	Title
Name	Name
Signature	Signature

SEC. 25.7. Section 5541.2 is added to the Public Resources Code, to read:

5541.2. The Riverside County Regional Park and Open-Space District may plan, acquire, preserve, protect, and otherwise improve, extend, control, operate, and maintain open-space areas, greenbelt areas, wildlife habitat areas, and regional parks for the use and enjoyment of all the inhabitants of the district. The district may select, designate, and acquire land, or rights in land, within or without the district, to be used and appropriated for those purposes.

SEC. 25.8. Section 5552.1 is added to the Public Resources Code, to read:

5552.1. Notwithstanding Section 5552, the board of directors of the Riverside County Regional Park and Open-Space District may, by resolution, eliminate the requirement that demands against the district which are paid without the prior, specific approval of the board be presented to the board at the next regular meeting for its review and approval.

SEC. 25.9. Section 97.05 is added to the Revenue and Taxation Code, to read:

97.05. For the purposes of paragraph (1) of subdivision (c) of Section 97.03, "multicounty district" includes District 2 of the Alameda Contra Costa Transit District. This section shall be deemed to have become operative July 1, 1992, and the auditor is hereby authorized to adjust the 1993–94 distributions to the Educational Revenue Augmentation Fund accordingly.

SEC. 26. Section 1806 of the Streets and Highways Code is amended to read:

1806. (a) No city shall be held liable for failure to maintain any road until it has been accepted into the city street system in accordance with subdivision (b) or (c).

(b) Except as provided by Section 989, or by Section 57329 or 57385 of the Government Code, no public or private street or road shall become a city street or road until the governing body, by resolution, has caused the street or road to be accepted into the city street system.

(c) In lieu of the procedure set forth in subdivision (b), the governing body of a city may, by ordinance, designate a city officer to accept, on behalf of the governing body, streets and roads or portions thereof, into the city street system and to record conveyances to the city of real property interests for street and road uses and purposes. The designee shall, prior to recording any conveyance under this section, affix a certificate to the instrument stating the acceptance into the city street system and designating the name or number, or both, of the city street or road.

SEC. 26.1. Section 21102 of the Water Code is amended to read:

21102. Prior to the first Friday in December next following the general district election each elective officer shall take and subscribe the official oath and file it in the office of the district and execute the bond required of him or her.

SEC. 27. Section 21375 of the Water Code is amended to read:

21375. On the first Tuesday after the original directors qualify, and on the day on which the board holds its first regular monthly meeting after the first Friday in December of the year in which a general district election is held, the directors shall meet and organize as a board and may transact any other business of the district.

SEC. 28. Section 21560 of the Water Code is amended to read:

21560. If an order made pursuant to this article changes the number of divisions, the terms of office of all directors shall expire at noon on the first Friday in December following the next general district election after the order, and the directors elected at that

election shall be equal in number to the number of divisions as changed and these directors shall at their first meeting classify themselves and determine the length of their respective terms in the manner provided in subdivision (c) of Section 23506 of the Elections Code.

SEC. 29. Section 22980 of the Water Code is amended to read:

22980. For purposes of this chapter, "district" means the Byron-Bethany Irrigation District, the Merced Irrigation District, or the East Contra Costa Irrigation District.

SEC. 30. Section 74461 of the Water Code is amended to read:

74461. The change may be initiated by the board by resolution or may be initiated by a petition signed by not less than 5 percent of the electors of the district. The resolution or petition shall state the new number of members of the board or the new basis for dividing the district into divisions based either on area or population or changes to the boundaries of the divisions of a district based on population.

SEC. 30.5. Section 74466 of the Water Code is amended to read:

74466. (a) The board of supervisors shall hear all interested persons and may adjourn the hearing from time to time. Following the hearing, the board of supervisors may further change the proposed division boundaries provided that the change is in accordance with this chapter and the resolution and petition. The board of supervisors shall make an order describing the proposed divisions of the district, numbering such divisions consecutively, and directing that such proposed redivision be submitted to the electors of the district at a special election to be consolidated with the next district general election to be held not earlier than 120 days thereafter.

(b) Notwithstanding subdivision (a), a redivision involving only changes to the boundaries of the divisions of a district based upon population, independent of a change in the basis of dividing the district into divisions, shall not be submitted to the electors of the district.

SEC. 31. Section 75601 is added to the Water Code, to read:

75601. (a) Notwithstanding any other provision of law, the board may amend the report prepared pursuant to Section 75561 at any time during the water year. Upon completion of any amended report, the board shall deliver the report to the secretary.

(b) The secretary shall publish a notice of the receipt of the amended report and of a public hearing. The notice shall be published pursuant to Section 75571.

(c) The board shall hold a public hearing within 30 days after the receipt of the amended report. Persons may appear and submit evidence at the public hearing concerning the groundwater conditions and the surface water supplies of the district. Any person may protest or support the amended report.

(d) The board may modify a groundwater charge levied pursuant to Section 75591 if, in the judgment of the board, based on the findings and determinations from the hearing held pursuant to

subdivision (c), the modification is necessary.

(e) Any groundwater charge modified pursuant to subdivision (d) is subject to Sections 75592, 75593, 75594, 75595, and 75596.

(f) Upon the modification of the groundwater charge pursuant to subdivision (d), the board shall notify, in writing, the board of supervisors and the auditor of each county of the modification.

SEC. 31.1. Section 11 of Chapter 129 of the Statutes of 1868 is amended to read:

Sec. 11. The Board of Supervisors may, in their discretion, and to the extent that the interests of the town require it, designate from any of the lands or lots mentioned in section eight of this Act, and set forth in such petition for public uses, such lands or lots as may be deemed eligible and adapted to such uses; and upon an order to that effect being made, the County Judge of said county shall, if the proceedings upon which such order is based appear to be regular, issue a certificate to that effect, and file the same with the Recorder of said county; and said Recorder shall thereupon record it in the proper record of deeds of conveyance of real estate for said county, and thereafter the lands and lots so embraced in such certificate shall be deemed to be dedicated to such public use until such time as the Legislature determines that the purpose for which the land has been dedicated no longer represents the best public use for the named property. That property is defined as the "Red Bluff Veterans Memorial Hall Property" and more specifically as: "All of Block 63 of the Town [now City of Red Bluff, as the same is shown on the map entitled, 'Official Map of the Town and Townsite of Red Bluff Tehama County California,' filed in the office of the County Recorder of the County of Tehama, State of California, May 29, 1878, and now appearing on file therein in Book 'A' at page 79," is designated by the Legislature for use by the Tehama County Board of Supervisors for the construction of a new Red Bluff Veterans Memorial Hall and to those other uses as the board deems to be in the public interest. This power specifically includes, but is not limited to, the power to lease or convey the "Red Bluff Veterans Memorial Hall Property" or any part thereof upon any terms and conditions that the board deems appropriate in the public interest.

SEC. 31.3. Section 7.1 of the Amador County Water Agency Act, Chapter 2137 of the Statutes of 1959, is amended to read:

Sec. 7.1. The governing body of the agency shall be a board of five directors, each of whom shall be a voter of, and nominated and elected from, a supervisorial district of the county.

The directors representing Amador County supervisorial districts 1, 4, and 5, who were elected at the direct primary election on June 5, 1990, shall hold office until their successors take office pursuant to Section 23556 of the Elections Code as a result of the 1994 general agency election. The directors representing supervisorial districts 2 and 3, who were elected at the direct primary election on June 2, 1992, shall hold office until their successors take office pursuant to Section 23556 of the Elections Code as a result of the 1996 general

agency election. Except as otherwise provided in this section, general agency elections shall be conducted pursuant to the Uniform District Election Law, Part 3 (commencing with Section 23500) of Division 14 of the Elections Code. The provisions of the Elections Code relating to the qualification of electors, so far as they may be applicable, shall govern all agency elections. Notwithstanding any other provision of law, agency elections shall be held on the first Tuesday after the first Monday in November of each even-numbered year.

All vacancies occurring in the office of director, including the failure of a person elected to qualify, shall be filled pursuant to Section 1780 of the Government Code.

SEC. 31.4. Section 26.6 of the Santa Clara Valley Water District Act, Chapter 1405 of the Statutes of 1951, as amended by Section 3 of Chapter 530 of the Statutes of 1971, is amended to read:

Sec. 26.6. On or before the first Tuesday in April of each year the report shall be delivered to the clerk of the district board in writing. The clerk shall publish, pursuant to Section 6061 of the Government Code, a notice of the receipt of the report and of the public hearing to be held on or before the fourth Tuesday in April in a newspaper of general circulation printed and published within the district, at least 10 days prior to the date at which the public hearing regarding the report shall be held. The notice, among other information which the district may provide, shall contain an invitation to all operators of water-producing facilities within the district and to any person interested in the district's activities in the protection and augmentation of the water supplies of the district to call at the offices of the district to examine the report. There shall be held on or before the fourth Tuesday of April of each year, in the chambers of the board, a public hearing at which time any operator of a water-producing facility within the district, or any person interested in the district's activities in the protection and augmentation of the water supplies of the district, may in person, or by representative, appear and submit evidence concerning the subject of the written report.

SEC. 31.5. Section 26.9 of the Santa Clara Valley Water District Act, Chapter 1405 of the Statutes of 1951, as amended by Section 1 of Chapter 6 of the First Extraordinary Session of 1991–92, is amended to read:

Sec. 26.9. (a) After the establishment of a zone in which a groundwater charge may be levied, each owner or operator of a water-producing facility within the zone, until the time that the water-producing facility has been permanently abandoned, shall file with the district, on or before the 30th day following the end of collection periods established by the board, a water production statement setting forth the total production in acre-feet of water for the preceding collection period, a general description or number locating each water-producing facility, the method or basis of the computation of the water production, and the amount of the

groundwater charge based on the computation. The collection periods may be established at intervals of not more than one year or less than one month. If no water has been produced from the water-producing facility during a preceding collection period, this statement shall be filed as provided for in this section, setting forth that no water has been produced during the applicable period. The statement shall be verified by a written declaration under penalty of perjury.

(b) The groundwater charge is payable to the district on or before the last date upon which the water production statements shall be filed, and is computed by multiplying the production in acre-feet of water for each classification as disclosed in the statement by the groundwater charge for each classification of water. The owner or operator of a water-producing facility which is being permanently abandoned shall give written notice of the abandonment to the district. If any owner or operator of a water-producing facility fails to pay the groundwater charge when due, the district shall charge interest at the rate of 1 percent each month on the delinquent amount of the groundwater charge.

(c) If any owner or operator of a water-producing facility fails to register each water-producing facility, or fails to file the water production statements as required by this act, the district shall, in addition to charging interest, assess a penalty charge against the owner or operator in an amount of 10 percent of the amount found by said district to be due. The board may adopt regulations to provide that in excusable or justifiable circumstances the penalty may be reduced or waived.

(d) If any owner or operator of a water-producing facility fails to file a water production statement as required by this act, the district shall, in addition to charging interest and assessing a penalty charge, assess an administrative charge to recover the costs of collection. The board may adopt regulations to provide that in excusable or justifiable circumstances the administrative charge may be reduced or waived.

(e) If a water-measuring device is permanently attached to a water-producing facility, the record of production as disclosed by the water-measuring device shall be presumed to be accurate and shall be used as the basis for computing the water production of the water-producing facility in completing the water production statement, unless it can be shown that the water-measuring device is not measuring accurately.

(f) If a water-measuring device is not permanently attached to a water-producing facility, the board may establish a method or methods to be used in computing the amount of water produced from the water-producing facilities. The methods may be based upon any or all of the following criteria: the minimum charge sufficient to cover administrative costs of collection, size of water-producing facility discharge opening, area served by the water-producing facility, number of persons served by the water-producing facility,

use of land served by the water-producing facility, crops grown on land served by the water-producing facility, or any other criteria or criteria which may be used to determine with reasonable accuracy the amount of water produced from that water-producing facility. The district may levy an annual charge upon a water-producing facility for which no production has been recorded but which has not been permanently abandoned if that charge does not exceed the annual cost to the district of maintaining and administering the registration of that facility.

SEC. 31.7. Section 700 of the Colusa Basin Drainage District Act, Chapter 1399 of the Statutes of 1987, is amended to read:

Sec. 700. The district may levy benefit assessments on a districtwide basis or within any zone, upon land only, as follows:

(a) An initial assessment for district expenses may be levied on the basis of an equal amount per acre as shown on the assessment rolls, but not to exceed ten cents ($0.10) per acre. It is hereby declared for that purpose that the benefit of district activities is received equally by all land. This initial assessment may be levied annually in lieu of the assessment specified in subdivision (b) until a plan has been approved pursuant to Section 610.

(b) Annual assessments pursuant to Sections 703 to 708, inclusive.

SEC. 32. With respect to Sections 9 and 19 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 Constitutions because of the unique circumstances of the Counties of Butte, Merced, Orange, Riverside, and Ventura and the Riverside County Regional Park and Open-Space District, Capistrano Beach Sanitary District and the Dana Point Sanitary District.

SEC. 33. 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 1196

An act to add Section 5009.1 to the Public Resources Code, relating to the state park system.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. The Legislature finds and declares as follows:

(a) State parks are a vital and valuable resource to the people of the state, and programs that maintain access to parks and enhance the experience of park visitors are in the best interest of the people of the state.

(b) Many individuals and organizations wish to volunteer their time or resources to state parks.

Therefore, it is the intent of the Legislature to encourage Californians to volunteer their time and resources to help keep parks clean, in good repair, and open. These volunteers, under the direction of state park personnel, may provide valuable volunteer services and funds to aid California's parks.

It is further the intent of the Legislature that funds and services received by the Department of Parks and Recreation pursuant to this act shall supplement existing resources and shall not supplant existing staffing resources.

SEC. 2. Section 5009.1 is added to the Public Resources Code, to read:

5009.1. (a) The department may enter into an agreement to accept funds from any person, corporation or other business entity, or organization for the maintenance or operation, on a nonprofit basis, of a designated state park system unit or facility. Any funds so received shall be deposited in a separate account in the State Park Contingent Fund. The funds received shall supplement existing resources for the purpose of enhancing the maintenance or operation of the unit or facility, with priority given to preventing closure or reduced hours of service to the public. The department and the sponsoring person, entity, or organization shall specify in the agreement the level of service which is to be performed.

(b) The department may enter into an agreement to accept services from any person, corporation or other business entity, or organization for the cleanup, repair, or enhancement of any designated state park system unit or facility. Under the direction of the department, these services shall supplement existing staff resources for the purpose of enhancing the maintenance and operation of the unit or facility.

(c) The director may authorize the erection of an appropriate sign in recognition of the sponsorship, consistent with existing law and with the rules and regulations of the department regarding signs

in units of the state park system.

CHAPTER 1197

An act to amend Sections 1171.5, 1177, 1692, 1700, and 1704 of, and to add Sections 1180.3, 1180.6, and 1184 to, the Harbors and Navigation Code, relating to harbors and navigation, and making an appropriation therefor.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 1171.5 of the Harbors and Navigation Code is amended to read:

1171.5. (a) The board shall adopt, by regulation, licensing standards which shall be equal to, or exceed, standards for obtaining federal endorsements and which shall conform with and support the state policy specified in Sections 1100 and 1101.

(b) The board shall adopt reasonable rules and regulations which require pilots to be qualified to perform all pilot duties.

(c) The board shall adopt, by regulation, training standards and a training program for pilots, inland pilots, and pilot trainees. In the case of pilot trainees, the training program shall be for a minimum of one year and a maximum of three years. In the case of pilots and inland pilots, the board shall specify the type, nature, duration, and frequency of the training required and the identity of the pilots or inland pilots who are required to undergo training in the next 12-month period. Pursuant to Section 1182, the license of a pilot or inland pilot may be revoked or suspended if he or she fails to complete the training required by this subdivision during the period specified. The board shall also require that an evaluation of the pilot's or inland pilot's performance be prepared by the institution selected by the board to provide pilot training, and the institution shall provide copies of the evaluation to the pilot or inland pilot and to the pilot evaluation committee.

(d) The board shall adopt, by regulation, the qualifications, standards, and rating criteria for admission of pilot trainees to the training program. Notwithstanding subdivision (f), the board shall administer and conduct the pilot trainee admission selection in accordance with the regulations for admission.

(e) The board shall establish a pilot evaluation committee consisting of five active pilots who each have at least 10 years' experience as a pilot on the Bays of San Francisco, San Pablo, and Suisun. The board shall select the members of the pilot evaluation committee. A member may not serve for more than two four-year terms, except that two of the initial members appointed to the pilot

evaluation committee shall serve terms of two years.

(f) The pilot evaluation committee shall conduct and supervise the pilot training programs pursuant to the direction and regulation of the board and consistent with the intent of this division.

(g) The board shall issue a certificate of completion to each pilot trainee who satisfactorily completes the training program. The board shall not issue a pilot's license to any person who does not receive a certificate of completion of the training program by the board, although the board may refuse to issue a pilot license to a pilot trainee who has received this certificate.

(h) The training program for pilots, inland pilots, and pilot trainees shall be funded from the Board of Pilot Commissioners Special Fund pursuant to Section 1159.

SEC. 2. Section 1177 of the Harbors and Navigation Code is amended to read:

1177. (a) All pilots licensed pursuant to this division shall have and maintain proper federal endorsements allowing them to pilot on the high seas and on all waters of the Bays of San Francisco, San Pablo, and Suisun, excluding the San Joaquin River and the Sacramento deep water ship channel.

(b) Notwithstanding subdivision (a), all pilots issued original licenses pursuant to this division after December 31, 1987, shall have and maintain proper federal endorsements allowing them to pilot on the high seas and on all waters of the Bays of San Francisco, San Pablo, and Suisun, including the San Joaquin River and the Sacramento deep water ship channel.

SEC. 3. Section 1180.3 is added to the Harbors and Navigation Code, to read:

1180.3. (a) The board shall establish an incident review committee, which shall be composed of one public member of the board and the executive director. The board shall delegate to the incident review committee the responsibility to review all reports of misconduct or navigational incidents involving pilots or inland pilots or other matters for which a license issued by the board may be revoked or suspended.

(b) The incident review committee shall, with the assistance of one or more investigators, investigate the incident, misconduct, or other matter and prepare a written report. The incident review committee may call witnesses and request additional information if the incident review committee considers it necessary to conduct a complete investigation. In performing their duties, the members of the incident review committee and its investigators shall act fairly and impartially and shall treat all matters developed or maintained as required by law. The members of the incident review committee and the investigators shall not discuss any investigation with the board or any member of the board until the matter has been finally disposed of by the incident review committee or final action has been taken by the board, as appropriate. The board shall specify, by regulation, the information to be contained in the report, which shall

include, but need not be limited to, the following information relating to the incident, misconduct, or other matter:

(1) The name of the vessel, date, location, and identification of the pilot or inland pilot.

(2) A description of the weather and sea conditions.

(3) An illustration and description of the incident, misconduct, or other matter under investigation.

(4) An estimate of the damages, if any.

(5) The names of the witnesses providing information relating to the incident, misconduct, or other matter under investigation.

(6) The nature and extent of any injuries.

(7) A summary of any prior investigations of incidents, misconduct, or other matters involving the same pilot or inland pilot designated pursuant to paragraph (1).

(8) Any relevant correspondence or records from the United States Coast Guard relating to the incident, misconduct, or other matter under investigation.

(9) A historical record of the actions taken in the investigation and the action taken pursuant to Section 1180.6.

(10) A summary of the factual background of the incident, misconduct, or other matter investigated.

(11) The following information that is not a part of the public record:

(A) The report from the pilot or inland pilot.

(B) The confidential report of the investigator.

(c) Unless an accusation for suspension or revocation of the pilot's or inland pilot's license is served on the pilot or inland pilot as provided in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the incident review committee shall present the completed investigation report to the board at the first monthly meeting of the board after the completion of the report. Unless an extension is granted by the board, the report shall be presented within 90 days of the date of the incident, misconduct, or other matter investigated.

(d) The record of the investigation prepared pursuant to subdivision (b) and the final disposition of the incident, misconduct, or other matter shall be retained in the records of the board for 10 years after the completion of the investigation and, except for the items listed in paragraph (11) of subdivision (b), shall be a public record.

SEC. 4. Section 1180.6 is added to the Harbors and Navigation Code, to read:

1180.6. (a) The incident review committee, after full consideration of the evidence relating to the investigation of an incident, misconduct, or other matter pursuant to Section 1180.3, shall, at the conclusion of the investigation, take one of the following actions:

(1) Serve an accusation for suspension or revocation of the pilot's or inland pilot's license on the pilot or inland pilot, as provided in

Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, pursuant to Sections 1181 and 1182.

(2) Enter into a written stipulation for corrective action to be performed by the pilot or inland pilot, which may include, but is not limited to, further training or supervised practice trips. A written stipulation may provide that it may be referred to and considered following a finding of fault in any subsequent accusation brought against the same pilot or inland pilot for the purpose of considering an appropriate sanction. A written stipulation shall not be used for any purpose more than five years after the date of its execution.

(3) Provide counselling for the pilot or inland pilot relating to the duties and obligations of a pilot.

(4) Issue a warning letter of reprimand to the pilot or inland pilot.

(5) Take any other action, as provided in the guidelines adopted pursuant to subdivision (e).

(6) Close the investigation without further action.

(b) Action shall be taken by the incident review committee pursuant to subdivision (a) only if both members of the incident review committee agree on the course of action. If agreement cannot be reached between the board member serving on the incident review committee and the executive director concerning appropriate action, the president of the board shall appoint one additional public member of the board to serve on the incident review committee until there is final disposition of the case. Action required pursuant to subdivision (a) shall then be taken by a majority vote of the incident review committee.

(c) No member of the board shall sit on the board as a trier of fact for those cases where he or she has served on the incident review committee recommending action to the board.

(d) The executive director shall establish a suspense file to ensure that all training, practice trips, or other corrective action required to be performed pursuant to subdivision (a) by the pilot or inland pilot are completed as required. The executive director shall report to the board each month on the progress of any training, supervised practice trips, or other corrective action or the completion of any other action required pursuant to subdivision (a).

(e) The board shall adopt guidelines for the determination by the incident review committee of the action to be taken pursuant to subdivision (a) at the completion of any investigation conducted pursuant to Section 1180.3.

SEC. 5. Section 1184 is added to the Harbors and Navigation Code, to read:

1184. The board shall formally review the executive director with respect to the performance of his or her duties pursuant to this article at least once each year.

SEC. 6. Section 1692 of the Harbors and Navigation Code is amended to read:

1692. "Authority" means a joint powers entity or nonprofit public

benefit corporation created in accordance with Section 1700.

SEC. 7. Section 1700 of the Harbors and Navigation Code is amended to read:

1700. (a) Any two or more harbor agencies may, pursuant to the joint powers law, establish an authority, separate from the parties to the agreement, for the purpose, in addition to any other purpose permitted under the joint powers law, of establishing an infrastructure fund and financing port or harbor infrastructure pursuant to this part.

(b) An authority may be formed as a nonprofit public benefit corporation subject to the nonprofit corporation law (Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code), for the purpose of establishing an infrastructure fund and financing port or harbor infrastructure pursuant to this part.

SEC. 8. Section 1704 of the Harbors and Navigation Code is amended to read:

1704. In addition to any purpose authorized under the joint powers law for which bonds may be issued, an authority may issue bonds in the manner set forth in Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code, to finance or refinance any port or harbor infrastructure or to make deposits into the infrastructure fund or any subaccount thereof, except that a nonprofit public benefit corporation may issue bonds only to the extent authorized by a joint powers agreement.

CHAPTER 1198

An act to amend Section 676.2 of the Insurance Code, relating to insurance.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 676.2 of the Insurance Code is amended to read:

676.2. (a) This section applies only to policies of commercial insurance which are subject to Section 675.5.

(b) After a policy has been in effect for more than 60 days, or if the policy is a renewal, effective immediately, no notice of cancellation shall be effective unless it complies with Section 677.2 and it is based on the occurrence, after the effective date of the policy, of one or more of the following:

(1) Nonpayment of premium, including payment due on a prior policy issued by the insurer and due during the current policy term covering the same risks.

(2) A judgment by a court or an administrative tribunal that the

named insured has violated any law of this state or of the United States having as one of its necessary elements an act which materially increases any of the risks insured against.

(3) Discovery of fraud or material misrepresentation by either of the following:

(A) The insured or his or her representative in obtaining the insurance.

(B) The named insured or his or her representative in pursuing a claim under the policy.

(4) Discovery of willful or grossly negligent acts or omissions, or of any violations of state laws or regulations establishing safety standards, by the named insured or his or her representative, which materially increase any of the risks insured against.

(5) Failure by the named insured or his or her representative to implement reasonable loss control requirements which were agreed to by the insured as a condition of policy issuance or which were conditions precedent to the use by the insurer of a particular rate or rating plan, if the failure materially increases any of the risks insured against.

(6) A determination by the commissioner that the loss of, or changes in, an insurer's reinsurance covering all or part of the risk would threaten the financial integrity or solvency of the insurer. A certification made under penalty of perjury to the commissioner by an officer of the insurer of the loss of, or change in, reinsurance and that the loss or change will threaten the financial integrity or solvency of the insurer if the cancellation of the policy is not permitted shall constitute such a determination unless disapproved by the commissioner within 30 days of the filing. There shall be no extensions to this 30-day period.

(7) A determination by the commissioner that a continuation of the policy coverage would place the insurer in violation of the laws of this state or the state of its domicile or that the continuation of coverage would threaten the solvency of the insurer.

(8) A change by the named insured or his or her representative in the activities or property of the commercial or industrial enterprise which results in a material added risk, a materially increased risk or a materially changed risk, unless the added, increased, or changed risk is included in the policy.

(c) After a policy has been in effect for more than 60 days, or if the policy is a renewal, effective immediately upon renewal, no increase in the rate upon which the premium is based, reduction in limits, or change in the conditions of coverage shall be effective during the policy period unless a written notice is mailed or delivered to the named insured and the producer of record at the mailing address shown on the policy, at least 30 days prior to the effective date of the increase, reduction, or change. Subdivision (a) of Section 1013 of the Code of Civil Procedure is applicable if the notice is mailed. The notice shall state the effective date of, and the reasons for, the increase, reduction, or change.

That increase, reduction, or change shall not be effective unless based upon one of the following reasons:

(1) Discovery of willful or grossly negligent acts or omissions, or of any violations of state laws or regulations establishing safety standards by the named insured which materially increase any of the risks or hazards insured against.

(2) Failure by the named insured to implement reasonable loss control requirements which were agreed to by the insured as a condition of policy issuance or which were conditions precedent to the use by the insurer of a particular rate or rating plan, if the failure materially increases any of the risks insured against.

(3) A determination by the commissioner that loss of or changes in an insurer's reinsurance covering all or part of the risk covered by the policy would threaten the financial integrity or solvency of the insurer unless the change in the terms or conditions or rate upon which the premium is based is permitted.

(4) A change by the named insured in the activities or property of the commercial or industrial enterprise which results in a materially added risk, a materially increased risk, or a materially changed risk, unless the added, increased, or changed risk is included in the policy.

(5) With respect to a change in the rate of a policy of professional liability insurance for a health care provider, the insurer's offer of renewal notifies the policyholder that the insurer has an application filed pursuant to Section 1861.05 pending with the commissioner for approval of a change in the rate upon which the premium is based, and the commissioner subsequently approves the rate change, or some different amount for the policy period. The change shall not be retroactive.

(d) The Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), and Chapter 5 (commencing with Section 11500) of Title 2 of Division 3 of the Government Code) shall not apply to a determination pursuant to paragraph (6) or (7) of subdivision (b) or paragraph (3) of subdivision (c). The commissioner shall charge an insurer who requests a determination pursuant to paragraph (6) or (7) of subdivision (b) a fee sufficient to recover the costs of making the determination. If the commissioner does not act upon a request by a insurer to cancel or change a policy pursuant to those provisions within 30 days, the request shall be deemed to be approved.

(e) This section shall not prohibit an insurer from increasing a premium during the policy period, if the increase is calculated in accordance with the current rating manual of the insurer, and is justified by a physical change in the insured property or by a change in the activities of the commercial or industrial enterprise which materially increases any of the risks insured against.

(f) This section shall not apply to a transfer of a policy without a change in its terms or conditions or the rate upon which the premium is based between insurers which are members of the same

insurance group.

CHAPTER 1199

An act to amend Sections 30803, 30805, 30810, 30820, 30821.6, and 30822 of, to amend and renumber Section 30826 of, and to add Section 30805.5 to, the Public Resources Code, relating to coastal resources.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 30803 of the Public Resources Code is amended to read:

30803. (a) Any person may maintain an action for declaratory and equitable relief to restrain any violation of this division, of a cease and desist order issued pursuant to Section 30809 or 30810, or of a restoration order issued pursuant to Section 30811. On a prima facie showing of a violation of this division, preliminary equitable relief shall be issued to restrain any further violation of this division. No bond shall be required for an action under this section.

(b) A court may stay the operation of the cease and desist order after it provides notice to the commission and holds a hearing. Any such stay may be imposed or continued only if it is not against the public interest.

SEC. 2. Section 30805 of the Public Resources Code is amended to read:

30805. Any person may maintain an action for the recovery of civil penalties provided for in Section 30820 or 30821.6.

SEC. 3. Section 30805.5 is added to the Public Resources Code, to read:

30805.5. Any action pursuant to Sections 30805 or 30822 to recover civil fines or penalties under this chapter shall be commenced not later than three years from the date on which the cause of action for the recovery is known or should have been known.

SEC. 4. Section 30810 of the Public Resources Code is amended to read:

30810. (a) If the commission, after public hearing, determines that any person or governmental agency has undertaken, or is threatening to undertake, any activity that (1) requires a permit from the commission without securing a permit or (2) is inconsistent with any permit previously issued by the commission, the commission may issue an order directing that person or governmental agency to cease and desist. The order may also be issued to enforce any requirements of a certified local coastal program or port master plan, or any requirements of this division which are subject to the jurisdiction of the certified program or plan,

under any of the following circumstances:

(1) The local government or port governing body requests the commission to assist with, or assume primary responsibility for, issuing a cease and desist order.

(2) The commission requests and the local government or port governing body declines to act, or does not take action in a timely manner, regarding an alleged violation which could cause significant damage to coastal resources.

(3) The local government or port governing body is a party to the violation.

(b) The cease and desist order may be subject to such terms and conditions as the commission may determine are necessary to ensure compliance with this division, including immediate removal of any development or material or the setting of a schedule within which steps shall be taken to obtain a permit pursuant to this division.

(c) Notice of the public hearing on a proposed cease and desist order shall be given to all affected persons and agencies and the order shall be final and effective upon the issuance of the order. Copies shall be served immediately by certified mail upon the person or governmental agency subject to the order and upon other affected persons and agencies who appeared at the hearing or requested a copy. The notice shall include a description of the civil remedy to a cease and desist order, authorized by Section 30803.

SEC. 5. Section 30820 of the Public Resources Code is amended to read:

30820. (a) Any person who violates any provision of this division may be civilly liable in accordance with this subdivision as follows:

(1) Civil liability may be imposed by the superior court in accordance with this article on any person who performs or undertakes development that is in violation of this division or that is inconsistent with any coastal development permit previously issued by the commission, a local government that is implementing a certified local coastal program, or a port governing body that is implementing a certified port master plan, in an amount that shall not exceed thirty thousand dollars ($30,000) and shall not be less than five hundred dollars ($500).

(2) Civil liability may be imposed for any violation of this division other than that specified in paragraph (1) in an amount that shall not exceed thirty thousand dollars ($30,000).

(b) Any person who performs or undertakes development that is in violation of this division or that is inconsistent with any coastal development permit previously issued by the commission, a local government that is implementing a certified local coastal program, or a port governing body that is implementing a certified port master plan, when the person intentionally and knowingly performs or undertakes the development in violation of this division or inconsistent with any previously issued coastal development permit, may, in addition to any other penalties, be civilly liable in accordance with this subdivision. Civil liability may be imposed by the superior

court in accordance with this article for a violation as specified in this subdivision in an amount which shall not be less than one thousand dollars ($1,000), nor more than fifteen thousand dollars ($15,000), per day for each day in which the violation persists.

(c) In determining the amount of civil liability, the following factors shall be considered:

(1) The nature, circumstance, extent, and gravity of the violation.

(2) Whether the violation is susceptible to restoration or other remedial measures.

(3) The sensitivity of the resource affected by the violation.

(4) The cost to the state of bringing the action.

(5) With respect to the violator, any voluntary restoration or remedial measures undertaken, any prior history of violations, the degree of culpability, economic profits, if any, resulting from, or expected to result as a consequence of, the violation, and such other matters as justice may require.

SEC. 6. Section 30821.6 of the Public Resources Code is amended to read:

30821.6. (a) Any person or governmental agency who intentionally or negligently violates any cease and desist order issued, reissued, or amended by the executive director or the commission, or any restoration order issued, reissued, or amended by the commission, a local government that is implementing a certified local coastal program, or a port governing body that is implementing a certified port master plan may be liable civilly in a sum of not to exceed six thousand dollars ($6,000) for each day in which that violation persists. Any actual penalty imposed shall be reasonably proportionate to the damage suffered as a consequence of the violation.

(b) Sections 30809 and 30810 and subdivision (a) of this section do not authorize the issuance or enforcement of any cease and desist order as to any activity undertaken by a local governmental agency pursuant to a declaration of emergency by the board of supervisors of the county in which the activity is being or may be undertaken.

SEC. 7. Section 30822 of the Public Resources Code is amended to read:

30822. Where a person has intentionally and knowingly violated any provision of this division or any order issued pursuant to this division, the commission may maintain an action, in addition to Section 30803 or 30805, for exemplary damages and may recover an award, the size of which is left to the discretion of the court. In exercising its discretion, the court shall consider the amount of liability necessary to deter further violations.

SEC. 8. Section 30826 of the Public Resources Code is amended and renumbered to read:

30811. In addition to any other authority to order restoration, the commission, a local government that is implementing a certified local coastal program, or a port governing body that is implementing a certified port master plan may, after a public hearing, order

restoration of a site if it finds that the development has occurred without a coastal development permit from the commission, local government, or port governing body, the development is inconsistent with this division, and the development is causing continuing resource damage.

CHAPTER 1200

An act to amend Section 62.1 of, and to to amend, repeal, and add Section 5802 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 62.1 of the Revenue and Taxation Code is amended to read:

62.1. Change in ownership shall not include either of the following:

(a) Any transfer, on or after January 1, 1985, of a mobilehome park to a nonprofit corporation, stock cooperative corporation, limited equity stock cooperative, or other entity formed by the tenants of a mobilehome park, for the purpose of purchasing the mobilehome park, provided that, with respect to any transfer of a mobilehome park on or after January 1, 1989, subject to this subdivision, the individual tenants who were renting at least 51 percent of the spaces in the mobilehome park prior to the transfer participate in the transaction through the ownership of an aggregate of at least 51 percent of the voting stock of, or other ownership or membership interests in, the entity which acquires the park.

(b) Any transfer or transfers on or after January 1, 1985, and before January 1, 2000, of rental spaces in a mobilehome park to the individual tenants of the rental spaces, provided that (1) at least 51 percent of the rental spaces are purchased by individual tenants renting their spaces prior to purchase, and (2) the individual tenants of these spaces form, within one year after the first purchase of a rental space by an individual tenant, a resident organization as described in subdivision (k) of Section 50781 of the Health and Safety Code, to operate and maintain the park. If, on or after January 1, 1985, and before January 1, 2000, an individual tenant or tenants notify the county assessor of the intention to comply with the conditions set forth in the preceding sentence, any mobilehome park rental space which is purchased by an individual tenant in that mobilehome park during that period shall not be reappraised by the assessor. However, if all of the conditions set forth in the first sentence of this subdivision are not satisfied, the county assessor shall

thereafter levy escape assessments for the spaces so transferred. This subdivision shall apply only to those rental mobilehome parks which have been in operation for five years or more.

(c) (1) If the transfer of a mobilehome park has been excluded from a change in ownership pursuant to subdivision (a) and the park has not been converted to condominium, stock cooperative ownership, or limited equity cooperative ownership, any transfer on or after January 1, 1989, of shares of the voting stock of, or other ownership or membership interests in, the entity which acquired the park in accordance with subdivision (a) shall be a change in ownership of a pro rata portion of the real property of the park unless the transfer is for the purpose of converting the park to condominium, stock cooperative ownership, or limited equity cooperative ownership or is excluded from change in ownership by Section 62, 63, or 63.1.

(2) For the purposes of this subdivision, "pro rata portion of the real property" means the total real property of the mobilehome park multiplied by a fraction consisting of the number of shares of voting stock, or other ownership or membership interests, transferred divided by the total number of outstanding issued or unissued shares of voting stock of, or other ownership or membership interests in, the entity which acquired the park in accordance with subdivision (a).

(3) Any pro rata portion or portions of real property which changed ownership pursuant to this subdivision may be separately assessed as provided in Section 2188.10.

(d) Subdivisions (a) and (b) shall remain operative only until January 1, 2000.

(e) It is the intent of the Legislature that, in order to facilitate affordable conversions of mobilehome parks to tenant ownership, subdivision (a) apply to all bona fide transfers of rental mobilehome parks to tenant ownership, including, but not limited to, those parks converted to tenant ownership as a nonprofit corporation made on or after January 1, 1985, and before the termination date of subdivision (a).

SEC. 2. Section 5802 of the Revenue and Taxation Code is amended to read:

5802. (a) Except as provided in subdivision (b), "base year value" as used in this part means the full cash value of a manufactured home on the date the manufactured home is purchased or changes ownership. If the manufactured home undergoes any new construction after it is purchased or changes ownership, the base year value of the new construction is its full cash value on the date on which the new construction is completed, and if uncompleted, on the lien date.

(b) The base year value of a manufactured home for which the license fee is delinquent shall be its full cash value on the lien date for the fiscal year in which it is first enrolled.

(c) Notwithstanding any other provision of law, the assessor shall determine the base year value of a manufactured home, located in

a resident-owned mobilehome park or a rental park in the process of being changed to resident ownership, that is converted to property taxation by the registered owner pursuant to Section 18555 of the Health and Safety Code, so that the property taxes levied, after adjustment for any applicable exemption, shall be the same amount as the vehicle license fee that was imposed for the registration year in which the home was converted to property taxation.

(d) This section shall remain in effect until January 1, 1999, and on that date is repealed.

SEC. 3. Section 5802 is added to the Revenue and Taxation Code, to read:

5802. (a) Except as provided in subdivision (b), "base year value" as used in this part means the full cash value of a manufactured home on the date the manufactured home is purchased or changes ownership. If the manufactured home undergoes any new construction after it is purchased or changes ownership, the base year value of the new construction is its full cash value on the date on which the new construction is completed, and if uncompleted, on the lien date.

(b) The base year value of a manufactured home for which the license fee is delinquent shall be its full cash value on the lien date for the fiscal year in which it is first enrolled.

(c) This section shall become operative on January 1, 1999.

SEC. 4. 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. 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1201

An act relating to off-highway motor vehicle recreation.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. It is the intent of the Legislature that, to the extent funds are available, and subject to completion and certification of a master plan and environmental impact report by the County of Los Angeles, the sum of two million dollars ($2,000,000) be appropriated in the Budget Act each fiscal year, commencing with the 1995–96 fiscal year and ending with the 2014–15 fiscal year, from the

Off-Highway Vehicle Fund to the Division of Off-Highway Motor Vehicle Recreation of the Department of Parks and Recreation for a grant to the County of Los Angeles for the acquisition and development of land for an off-highway vehicle park. Any grant pursuant to this act shall be subject to approval pursuant to subdivision (e) of Section 5090.24 and to the restrictions of Section 5090.45. Any money appropriated for the purposes of this act each fiscal year shall not exceed the funds generated in Los Angeles County for deposit in the Off-Highway Vehicle Fund for that year.

SEC. 2. Funds granted to the County of Los Angeles pursuant to Section 1 of this act for the acquisition and development of land for an off-highway vehicle park, including the proceeds of any state bond act hereafter approved by the voters for that purpose, may be expended for the payment of principal of, and interest on, certificates of participation or other indebtedness authorized to be issued for the purpose. Any indebtedness incurred by the County of Los Angeles for the purposes of an off-highway vehicle park shall be the sole responsibility of the county.

CHAPTER 1202

An act to amend Sections 8670.37.5, 8670.48, 8670.49, and 8670.56.6 of the Government Code, relating to oil spills.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 8670.37.5 of the Government Code is amended to read:

8670.37.5. (a) The administrator shall establish rescue and rehabilitation stations for sea birds, sea otters, and other marine mammals. These facilities shall be established and maintained in a state of preparedness to provide the best achievable treatment for marine mammals and birds affected by an oil spill in marine waters.

(b) The first rescue and rehabilitation station established pursuant to this section shall be located within the sea otter range on the central coast, and the administrator shall proceed to bid on the construction contract by July 1, 1994. The administrator shall establish regional oiled wildlife rescue and rehabilitation facilities in the Los Angeles Harbor area, the San Francisco Bay area, the San Diego area, the Monterey Bay area, the Humboldt County area, and the Santa Barbara area, and may establish those facilities in other coastal areas of the state as the administrator determines to be necessary. One or more of the oiled wildlife rescue and rehabilitation stations shall be open to the public for educational purposes and shall be available for marine wildlife health research. Wherever possible

in the establishment of these facilities, the administrator shall improve existing authorized marine mammal rehabilitation facilities and may expand or take advantage of existing educational or scientific programs and institutions for oiled wildlife rehabilitation purposes. Expenditures shall be reviewed by the agencies and organizations specified in subdivision (c).

(c) Not later than July 1, 1992, the administrator shall consult with the United States Fish and Wildlife Service, the National Marine Fisheries Service, the California Coastal Commission, the Marine Mammal Center, and the International Bird Rescue Center in the design, planning, construction, and operation of the rescue and rehabilitation stations. All proposals for the rescue and rehabilitation stations shall be presented before a public hearing prior to the construction and operation of any rehabilitation station, and, upon completion of the coastal protection element of the state oil spill contingency plan, shall be consistent with the coastal protection element.

(d) The administrator may enter into agreements with nonprofit organizations to establish and equip wildlife rescue and rehabilitation stations and to ensure that they are operated in a professional manner in keeping with the pertinent guidance documents issued by the Office of Oil Spill Prevention and Response in the Department of Fish and Game. The implementation of any such agreement shall not constitute a state public works project.

(e) (1) Five hundred thousand dollars ($500,000) of federal escrow funds received by the state pursuant to Section 8(g) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. Sec. 1337(g)), shall, upon approval in the 1991–92 Budget Act, be appropriated or allocated for appropriation, as the case may be, from the Federal Trust Fund, each year for three years for the purposes described in subdivision (a).

(2) Additional funding shall be provided for the purposes described in subdivision (a) from three years of interest earned on the funds deposited in the Oil Spill Response Trust Fund as authorized in subdivision (*l*) of Section 8670.48 or through the Budget Act process upon the request by the administrator.

SEC. 2. Section 8670.48 of the Government Code is amended to read:

8670.48. (a) (1) A uniform oil spill response fee in an amount not exceeding twenty-five cents ($0.25) for each barrel of petroleum products, as set by the administrator pursuant to subdivision (f), shall be imposed upon every person owning petroleum products at the time the petroleum products are received at a marine terminal within this state by means of a vessel from a point of origin outside this state. The fee shall be remitted to the State Board of Equalization by the terminal operator on the 25th day of each month based upon the number of barrels of petroleum products received during the preceding month.

(2) Every owner of petroleum products is liable for the fee until

it has been paid to the state, except that payment to a marine terminal operator registered under this chapter is sufficient to relieve the owner from further liability for the fee.

(b) Every operator of a pipeline shall also pay a uniform oil spill response fee in an amount not exceeding twenty-five cents ($0.25) for each barrel of petroleum products, as set by the administrator pursuant to subdivision (f), transported into the state by means of a pipeline operating across, under, or through the marine waters of the state. The fee shall be paid on the 25th day of each month based upon the number of barrels of petroleum products so transported into the state during the preceding month.

(c) (1) Every operator of a refinery shall pay a uniform oil spill response fee in an amount not exceeding twenty-five cents ($0.25) for each barrel of crude oil, as set by the administrator pursuant to subdivision (f), received at a refinery within the state. The fee shall be paid on the 25th day of each month based upon the number of barrels of crude oil so received during the preceding month.

(2) The fee shall not be imposed by a refiner, or a person or entity acting as an agent for a refiner, on crude oil produced by an independent crude oil producer as defined in paragraph (3). The board shall not identify a company as exempt from the fee requirements of this section if that company was reorganized, sold, or otherwise modified with the intent of circumventing the requirements of this section.

(3) For purposes of this chapter, "independent crude oil producer" means any person or entity producing crude oil within this state who performs no refining of crude oil into product, and who possesses or owns no retail gasoline marketing facilities.

(d) Every marine terminal operator shall pay a uniform oil spill response fee in an amount not exceeding twenty-five cents ($0.25), in accordance with subdivision (g), for each barrel of crude oil, as set by the administrator pursuant to subdivision (f), that is transported from within this state by means of marine vessel to a destination outside this state.

(e) Every operator of a pipeline shall pay a uniform oil spill response fee in an amount not exceeding twenty-five cents ($0.25), in accordance with subdivision (g), for each barrel of crude oil, as set by the administrator pursuant to subdivision (f), transported out of the state by pipeline.

(f) The fees required pursuant to this section shall be collected during any period that the fund contains less than the designated amount, as defined in subdivision (h). The administrator, in consultation with the State Board of Equalization, shall set the amount of the oil spill response fees. The oil spill response fees shall be imposed on all feepayers in the same amount. The administrator shall not set the amount of the fee at less than twenty-five cents ($0.25) for each barrel of petroleum products or crude oil, unless the administrator finds that the assessment of a lesser fee will cause the fund to reach the designated amount within four months. The fee

shall not be less than twenty-five cents ($0.25) for each barrel of petroleum products or crude oil during any period which the state has borrowed money pursuant to Article 7.5 (commencing with Section 8670.53.1).

(g) The fees imposed by subdivisions (d) and (e) shall be imposed in any calendar year beginning the month following the month when the total cumulative year-to-date barrels of crude oil transported outside the state by all feepayers by means of vessel or pipeline exceeds 6 percent by volume of the total barrels of crude oil and petroleum products subject to oil spill response fees under subdivisions (a), (b), and (c) for the prior calendar year.

(h) For purposes of this chapter, "designated amount" means an amount equal to one hundred million dollars ($100,000,000), adjusted for inflation after January 1, 1991, according to an index which the administrator may reasonably choose, subject to the following:

(1) Fifty million dollars ($50,000,000) shall be retained in the fund as cash, adjusted for inflation.

(2) Fifty million dollars ($50,000,000), adjusted for inflation, shall be immediately accessible in the fund in the form of financial security obtained by the Treasurer as authorized by subdivision (p).

(3) The adjustment for inflation shall be suspended for the three-year period commencing July 1, 1993, and ending July 1, 1996, and no adjustment shall be made until July 1, 1997. The designated amount as of June 30, 1993, shall remain the designated amount until adjusted for inflation on July 1, 1997.

(i) (1) The administrator shall authorize refunds of any fees collected, for reporting periods after January 31, 1991, in excess of the amount specified in paragraph (1) of subdivision (h). The board, as directed by the administrator and in accordance with Section 46653 of the Revenue and Taxation Code, shall refund the excess amount of fees collected to each feepayer who paid the fee to the state, in proportion to the amount that each feepayer paid into the fund during the preceding 12 monthly reporting periods, including the month in which the fund exceeded the specified amount, and only for those periods which commenced on or after January 31, 1991.

(2) Any amount of fees collected in excess of the specified amount for periods prior to February 1, 1991, shall be refunded as follows:

(A) First, to feepayers who paid oil spill response fees under subdivision (d) or (e) of Section 8670.48 of the Government Code as added by Chapter 1248 of the Statutes of 1990.

(B) Second, to feepayers in proportion to the amount each feepayer paid into the fund for the period from September 24, 1990, to January 31, 1991, inclusive, less any amounts refunded pursuant to paragraph (1).

(j) The board shall collect the fee and adopt regulations implementing the fee collection program. All fees collected pursuant to this section shall be deposited in the Oil Spill Response Trust Fund.

(k) The fee described in this section shall be collected solely for any of the following purposes:

(1) To provide funds to cover promptly the costs of response, containment, and cleanup of oil spills into marine waters, including damage assessment costs, and wildlife rehabilitation as provided in Section 8670.61.5.

(2) To provide emergency loans and to cover response and cleanup costs and other damages suffered by the state or other persons or entities from oil spills into marine waters which cannot otherwise be compensated by responsible parties or the federal government.

(3) To pay claims for damages pursuant to Section 8670.51.

(4) To pay claims for damages, except for damages described in paragraph (7) of subdivision (g) of Section 8670.56.5, pursuant to Section 8670.51.1.

(5) To pay for the arrangement of fifty million dollars ($50,000,000) of financial security as authorized by subdivision (p).

(6) To pay indemnity and related costs and expenses as authorized by Section 8670.56.6.

(*l*) The interest that the state earns on the funds deposited into the Oil Spill Response Trust Fund shall be deposited in the fund and shall be used to maintain the fund at the designated amount. Interest earned for three years commencing on July 1, 1994, on funds deposited pursuant to paragraph (1) of subdivision (h) in the Oil Spill Response Trust Fund, as determined jointly by the Controller and the Director of Finance, shall be available, upon appropriation by the Legislature in the Budget Act, to establish rescue and rehabilitation stations for oiled wildlife as described in Section 8670.37.5. Interest earned on the financial security portion of the fund pursuant to paragraph (2) of subdivision (h) shall not be available for this purpose. If the fund exceeds the designated amount, the interest not needed to bring the fund to the designated amount shall be deposited into the Oil Spill Prevention and Administration Fund.

(m) The Legislature finds and declares that effective response to oil spills requires that the state have available sufficient funds in a response fund. The Legislature further finds and declares that maintenance of that fund is of utmost importance to the state and that the moneys in the fund shall be used solely for the purposes specified in subdivision (k).

(n) For the purposes of this section, "marine waters" includes the waterways used for waterborne commercial vessel traffic to the Port of Stockton and the Port of Sacramento.

(o) It is the intent of the Legislature, in enacting this section, that the fee shall not be imposed by a refiner, or a person or entity acting as an agent for a refiner, on crude oil produced by an independent crude oil producer.

(p) The Treasurer shall purchase fifty million dollars ($50,000,000) of financial security which may be drawn upon immediately by the administrator upon making the determinations as required by Section 8670.49. The financial security shall be in a

form as described in subdivision (a) of Section 8670.53.3.

(q) Nothing in this section limits the authority of the administrator to raise the oil spill response fees pursuant to Section 8670.48.5 of the Government Code.

SEC. 2.5. Section 8670.48 of the Government Code is amended to read:

8670.48. (a) (1) A uniform oil spill response fee in an amount not exceeding twenty-five cents ($0.25) for each barrel of petroleum products, as set by the administrator pursuant to subdivision (f), shall be imposed upon every person owning petroleum products at the time the petroleum products are received at a marine terminal within this state by means of a vessel from a point of origin outside this state. The fee shall be remitted to the State Board of Equalization by the terminal operator on the 25th day of each month based upon the number of barrels of petroleum products received during the preceding month.

(2) Every owner of petroleum products is liable for the fee until it has been paid to the state, except that payment to a marine terminal operator registered under this chapter is sufficient to relieve the owner from further liability for the fee.

(b) Every operator of a pipeline shall also pay a uniform oil spill response fee in an amount not exceeding twenty-five cents ($0.25) for each barrel of petroleum products, as set by the administrator pursuant to subdivision (f), transported into the state by means of a pipeline operating across, under, or through the marine waters of the state. The fee shall be paid on the 25th day of each month based upon the number of barrels of petroleum products so transported into the state during the preceding month.

(c) (1) Every operator of a refinery shall pay a uniform oil spill response fee in an amount not exceeding twenty-five cents ($0.25) for each barrel of crude oil, as set by the administrator pursuant to subdivision (f), received at a refinery within the state. The fee shall be paid on the 25th day of each month based upon the number of barrels of crude oil so received during the preceding month.

(2) The fee shall not be imposed by a refiner, or a person or entity acting as an agent for a refiner, on crude oil produced by an independent crude oil producer as defined in paragraph (3). The board shall not identify a company as exempt from the fee requirements of this section if that company was reorganized, sold, or otherwise modified with the intent of circumventing the requirements of this section.

(3) For purposes of this chapter, "independent crude oil producer" means any person or entity producing crude oil within this state who performs no refining of crude oil into product, and who possesses or owns no retail gasoline marketing facilities.

(d) Every marine terminal operator shall pay a uniform oil spill response fee in an amount not exceeding twenty-five cents ($0.25), in accordance with subdivision (g), for each barrel of crude oil, as set by the administrator pursuant to subdivision (f), that is transported

from within this state by means of marine vessel to a destination outside this state.

(e) Every operator of a pipeline shall pay a uniform oil spill response fee in an amount not exceeding twenty-five cents ($0.25), in accordance with subdivision (g), for each barrel of crude oil, as set by the administrator pursuant to subdivision (f), transported out of the state by pipeline.

(f) (1) The fees required pursuant to this section shall be collected during any period that the administrator determines that either the amount in the fund is less than or equal to 95 percent of the amount specified in paragraph (1) of subdivision (h), or additional moneys are required to pay for the purposes specified in subdivision (k).

(2) Whenever the administrator, in consultation with the State Board of Equalization, estimates that the amount in the fund will reach the amount specified in paragraph (1) of subdivision (h), and the money in the fund is not required for the purposes specified in subdivision (k), the administrator shall direct the State Board of Equalization to cease collecting the fee. In no event shall the fee cease to be imposed if the Treasurer has borrowed money pursuant to Article 7.5 (commencing with Section 8670.53.1) and principal, interest, premium, fees, charges, or costs of any kind imposed in connection with those borrowings remain outstanding or unpaid, unless the Treasurer has certified to the administrator that the continued imposition of the fee is not required for the purposes specified in paragraph (7) of subdivision (k).

(3) The administrator, in consultation with the State Board of Equalization, shall set the amount of the oil spill response fees. The oil spill response fees shall be imposed on all feepayers in the same amount. The administrator shall not set the amount of the fee at less than twenty-five cents ($0.25) for each barrel of petroleum products or crude oil, unless the administrator finds that the assessment of a lesser fee will cause the fund to reach the designated amount within four months. The fee shall not be less than twenty-five cents ($0.25) for each barrel of petroleum products or crude oil if the Treasurer has borrowed money pursuant to Article 7.5 (commencing with Section 8670.53.1) and principal, interest, premium, fees, charges, or costs of any kind imposed in connection with those borrowings remain outstanding or unpaid, unless the Treasurer has certified to the administrator that the money in the fund is not required for the purposes specified in paragraph (7) of subdivision (k).

(g) The fees imposed by subdivisions (d) and (e) shall be imposed in any calendar year beginning the month following the month when the total cumulative year-to-date barrels of crude oil transported outside the state by all feepayers by means of vessel or pipeline exceeds 6 percent by volume of the total barrels of crude oil and petroleum products subject to oil spill response fees under subdivisions (a), (b), and (c) for the prior calendar year.

(h) For purposes of this chapter, "designated amount" means an

amount equal to one hundred million dollars ($100,000,000), adjusted for inflation after January 1, 1991, according to an index which the administrator may reasonably choose, subject to the following:

(1) Fifty million dollars ($50,000,000) shall be retained in the fund as cash, adjusted for inflation.

(2) Fifty million dollars ($50,000,000), adjusted for inflation, shall be immediately accessible in the fund in the form of financial security obtained by the Treasurer as authorized by subdivision (p).

(3) The adjustment for inflation shall be suspended for the three-year period commencing July 1, 1993, and ending July 1, 1996, and no adjustment shall be made until July 1, 1997. The designated amount as of June 30, 1993, shall remain the designated amount until adjusted for inflation on July 1, 1997.

(i) (1) The administrator shall authorize refunds of any money collected, for reporting periods after January 31, 1991, in excess of the amount specified in paragraph (1) of subdivision (h) and any amounts determined by the administrator to be necessary to provide for any of the purposes specified in paragraphs (1) to (6), inclusive, of subdivision (k) and, if the Treasurer has borrowed money pursuant to Article 7.5 (commencing with Section 8670.53.1) and principal, interest, premium, fees, charges, or costs of any kind imposed in connection with those borrowings remain outstanding or unpaid, any amounts the Treasurer has certified to the administrator are required for the purposes specified in paragraph (7) of subdivision (k). The board, as directed by the administrator and in accordance with Section 46653 of the Revenue and Taxation Code, shall refund the excess amount of fees collected to each feepayer who paid the fee to the state, in proportion to the amount that each feepayer paid into the fund during the preceding 12 monthly reporting periods in which there was a fee due, including the month in which the fund exceeded the specified amount, and only for those periods which commenced on or after January 31, 1991. If the total amount of money in the fund exceeds the amount specified in this subdivision by 10 percent or less, refunds need not be ordered by the administrator. Nothing in this section shall require the refund of excess fees as provided in this subdivision more frequently than once each year.

(2) Any amount of fees collected in excess of the specified amount for periods prior to February 1, 1991, shall be refunded as follows:

(A) First, to feepayers who paid oil spill response fees under subdivision (d) or (e) of Section 8670.48 of the Government Code as added by Chapter 1248 of the Statutes of 1990.

(B) Second, to feepayers in proportion to the amount each feepayer paid into the fund for the period from September 24, 1990, to January 31, 1991, inclusive, less any amounts refunded pursuant to paragraph (1).

(j) The board shall collect the fee and adopt regulations implementing the fee collection program. All fees collected pursuant to this section shall be deposited in the Oil Spill Response Trust Fund.

(k) The fee described in this section shall be collected solely for any of the following purposes:

(1) To provide funds to cover promptly the costs of response, containment, and cleanup of oil spills into marine waters, including damage assessment costs, and wildlife rehabilitation as provided in Section 8670.61.5.

(2) To provide emergency loans and to cover response and cleanup costs and other damages suffered by the state or other persons or entities from oil spills into marine waters which cannot otherwise be compensated by responsible parties or the federal government.

(3) To pay claims for damages pursuant to Section 8670.51.

(4) To pay claims for damages, except for damages described in paragraph (7) of subdivision (g) of Section 8670.56.5, pursuant to Section 8670.51.1.

(5) To pay for the arrangement of fifty million dollars ($50,000,000), adjusted for inflation, of financial security as authorized by subdivision (p).

(6) To pay indemnity and related costs and expenses as authorized by Section 8670.56.6.

(7) To pay principal, interest, premium, if any, and fees, charges, and costs of any kind imposed in connection with funds borrowed pursuant to Article 7.5 (commencing with Section 8670.53.1).

(*l*) The interest that the state earns on the funds deposited into the Oil Spill Response Trust Fund shall be deposited in the fund and shall be used to maintain the fund at the designated amount. Interest earned for three years commencing on July 1, 1994, on funds deposited pursuant to paragraph (1) of subdivision (h) in the Oil Spill Response Trust Fund, as determined jointly by the Controller and the Director of Finance, shall be available upon appropriation by the Legislature in the Budget Act to establish rescue and rehabilitation stations for oiled wildlife as described in Section 8670.37.5. Interest earned on the financial security portion of the fund, pursuant to paragraph (2) of subdivision (h), shall not be available for this purpose. If the fund exceeds the designated amount, the interest not needed to bring the fund to the designated amount shall be deposited into the Oil Spill Prevention and Administration Fund.

(m) The Legislature finds and declares that effective response to oil spills requires that the state have available sufficient funds in a response fund. The Legislature further finds and declares that maintenance of that fund is of utmost importance to the state and that the moneys in the fund shall be used solely for the purposes specified in subdivision (k).

(n) For the purposes of this section, "marine waters" includes the waterways used for waterborne commercial vessel traffic to the Port of Stockton and the Port of Sacramento.

(o) It is the intent of the Legislature, in enacting this section, that the fee shall not be imposed by a refiner, or a person or entity acting

as an agent for a refiner, on crude oil produced by an independent crude oil producer.

(p) The Treasurer shall purchase fifty million dollars ($50,000,000), adjusted for inflation, of financial security which may be drawn upon immediately by the administrator upon making the determinations as required by Section 8670.49. The financial security shall be in a form as described in subdivision (a) of Section 8670.53.3.

(q) Nothing in this section limits the authority of the administrator to raise the oil spill response fees pursuant to Section 8670.48.5 of the Government Code.

SEC. 3. Section 8670.49 of the Government Code is amended to read:

8670.49. (a) Except to pay for the arrangement of the financial security as authorized by paragraph (5) of subdivision (k) and subdivision (p) of Section 8670.48 and to pay for the construction and initial equipping of rescue and rehabilitation facilities from interest earned on funds deposited in the fund as authorized by subdivision (*l*) of Section 8670.48, the administrator may only expend money from the fund if a discharge of oil into marine waters has occurred and the following determinations have been made:

(1) Except as authorized by Section 8670.51.1, a responsible party does not exist or the responsible party is unable or unwilling to provide adequate and timely cleanup and to pay for the damages resulting from the spill. The administrator shall make a reasonable effort to have the party responsible remove the oil or agree to pay for any actions resulting from the spill that may be required by law, provided that the efforts are not detrimental to fish, plant, animal, or bird life in the affected waters. The reasonable effort of the administrator shall include attempting to access the responsible parties' insurance or other proof of financial responsibility.

(2) Federal oil spill funds are not available or will not be available in an adequate period of time.

(b) Upon making the determinations specified in subdivision (a), the administrator shall immediately make whatever payments are necessary for responding to, containing, or cleaning up, the spill, including any wildlife rehabilitation required by law and payment of claims pursuant to Sections 8670.51 and 8670.51.1.

SEC. 3.5. Section 8670.49 of the Government Code is amended to read:

8670.49. (a) Except to pay for the arrangement of the financial security as authorized by paragraph (5) of subdivision (k) and subdivision (p) of Section 8670.48 and to pay for the construction and initial equipping of rescue and rehabilitation facilities from interest earned on funds deposited in the fund as authorized by subdivision (*l*) of Section 8670.48, the administrator may only expend money from the fund if a discharge of oil into marine waters has occurred and the following determinations have been made:

(1) Except as authorized by Section 8670.51.1, a responsible party does not exist or the responsible party is unable or unwilling to

provide adequate and timely cleanup and to pay for the damages resulting from the spill. The administrator shall make a reasonable effort to have the party responsible remove the oil or agree to pay for any actions resulting from the spill that may be required by law, provided that the efforts are not detrimental to fish, plant, animal, or bird life in the affected waters. The reasonable effort of the administrator shall include attempting to access the responsible parties' insurance or other proof of financial responsibility.

(2) Federal oil spill funds are not available or will not be available in an adequate period of time. Notwithstanding this subdivision, the administrator may expend money from the fund for authorized expenditures when a reimbursement procedure is in place to receive reimbursements from federal oil spill funds.

(b) Upon making the determinations specified in subdivision (a), the administrator shall immediately make whatever payments are necessary for responding to, containing, or cleaning up, the spill, including any wildlife rehabilitation required by law and payment of claims pursuant to Sections 8670.51 and 8670.51.1.

SEC. 4. Section 8670.56.6 of the Government Code is amended to read:

8670.56.6. (a) (1) Except as provided in subdivisions (b) and (d), and subject to subdivision (c), no person, including, but not limited to, an oil spill cooperative, its agents, subcontractors, or employees, shall be liable under this chapter or the laws of the state to any person for costs, damages, or other claims or expenses as a result of actions taken or omitted in good faith in the course of rendering care, assistance, or advice in accordance with the National Contingency Plan, the state oil spill contingency plan, or at the direction of the administrator, onsite coordinator, or the Coast Guard in response to a spill or threatened spill of oil.

(2) The qualified immunity under this section shall not apply to any oil spill response action which is inconsistent with the following:

(A) The directions of the unified command, consisting of at least the Coast Guard and the administrator.

(B) In the absence of a unified command, the directions of the administrator pursuant to Section 8670.27.

(C) In the absence of directions pursuant to subparagraph (A) or (B), applicable contingency plans implemented under this division.

(3) Nothing in this section shall, in any manner or respect, affect or impair any cause of action against or any liability of any person or persons responsible for the spill, for the discharged oil, or for the tanker, barge, terminal, pipeline, or facility from which the oil was discharged. The responsible person or persons shall remain liable for any and all damages arising from the discharge, including damages arising from improperly carried out response efforts, as otherwise provided by law.

(b) Nothing in this section shall, in any manner or respect, affect or impair any cause of action against or any liability of any party or parties responsible for the spill, or the responsible party's agents,

employees, or subcontractors, except persons immunized under subdivision (a) for response efforts, for the discharged oil, or for the tanker, terminal, pipeline, or marine facility from which the oil was discharged.

(c) The responsible party or parties shall:

(1) Notwithstanding subdivision (b) or (h) of Section 8670.56.5, or any other provision of law, be strictly and jointly and severally liable for all damages arising pursuant to subdivision (g) of Section 8670.56.5 from the response efforts of its agents, employees, subcontractors, or an oil spill cooperative of which it is a member or with which it has a contract or other arrangement for cleanup of its oil spills, unless it would have a defense to the original spill.

(2) Remain strictly liable for any and all damages arising from the response efforts of a person other than a person specified in paragraph (1).

(d) Nothing in this section shall immunize a cooperative or any other person from liability for acts of gross negligence or willful misconduct in connection with the cleanup of a spill.

(e) This section shall not apply to any action for personal injury or wrongful death.

(f) As used in this section, a "cooperative" means an organization of private persons which is established for the primary purpose and activity of preventing or rendering care, assistance, or advice in response to a spill or threatened spill.

(g) Except for the responsible party, membership in a cooperative shall not, in and of itself, be grounds for liability resulting from cleanup activities of the cooperative.

(h) For purposes of this section, there shall be a rebuttable presumption that an act or omission described in subdivision (a) was taken in good faith.

(i) In any situation in which immunity is granted pursuant to subdivision (a) and a responsible party is not liable, is not liable for noneconomic damages caused by another, or is partially or totally insolvent, the fund provided for in Article 7 (commencing with Section 8670.46) shall, in accordance with its terms, reimburse claims of any injured party for which a person who is granted immunity pursuant to this section would otherwise be liable.

(j) (1) The immunity granted by this section shall only apply to response efforts that are undertaken after the administrator certifies that contracts with qualified and responsible persons are in place to ensure an adequate and expeditious response to any foreseeable oil spill that may occur in marine waters for which the responsible party (A) cannot be identified or (B) is unable or unwilling to respond, contain, and cleanup the oil spill in an adequate and timely manner. In negotiating these contracts, the administrator shall, to the maximum extent practicable, procure the services of persons who are willing to respond to oil spills with no, or lesser, immunity than that conferred by this section, but, in no event, a greater immunity. The administrator shall make the certification required by this

subdivision on an annual basis. Upon certification, the immunity conferred by this section shall apply to all response efforts undertaken during the calendar year to which the certification applies. In the absence of the certification required by this subdivision, the immunity conferred by this section shall not attach to any response efforts undertaken by any person in marine waters.

(2) In addition to the authority to negotiate contracts described in paragraph (1), the administrator may also negotiate and enter into indemnification agreements with qualified and financially responsible persons to respond to oil spills that may occur in marine waters for which the responsible party (A) cannot be identified or (B) is unable or unwilling to respond, contain, and cleanup the oil spill in an adequate and timely manner.

(3) The administrator may indemnify response contractors for (A) all damages payable by means of settlement or judgment that arise from response efforts to which the immunity conferred by this section would otherwise apply, and (B) reasonably related legal costs and expenses incurred by the responder, provided that indemnification shall only apply to response efforts undertaken after the expiration of any immunity that may exist as the result of the contract negotiations authorized in this subdivision. In negotiating these contracts, the administrator shall, to the maximum extent practicable, procure the services of persons who are willing to respond to oil spills with no, or as little, right to indemnification as possible. All indemnification shall be paid by the administrator from the Oil Spill Response Trust Fund.

(4) (A) The contracts required by this section, and any other contracts entered into by the administrator for response, containment, or cleanup of an existing spill, the payment of which is to be made from the Oil Spill Response Trust Fund created pursuant to Section 8670.46, or for response to an imminent threat of a spill, the payment of which is to be made out of the Oil Spill Prevention and Administration Fund created pursuant to Section 8670.38, shall be exempt from Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code and Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code.

(B) The exemption specified in subparagraph (A) applies only to contracts for which the services are used for a period of less than 90 days, cumulatively, per year.

(C) This paragraph shall not be construed as limiting the administrator's authority to exercise the emergency powers granted pursuant to subdivision (c) of Section 8670.62, including the authority to enter into emergency contracts that are exempt from approval by the Department of General Services.

(k) (1) With regard to a person who is regularly engaged in the business of responding to oil spills, the immunity conferred by this section shall not apply to any response efforts by that person that occur later than 60 days after the first day the person's response

efforts commence.

(2) Notwithstanding the limitation contained in paragraph (1), the administrator may, upon making all the following findings, extend the period of time, not to exceed 30 days, during which the immunity conferred by this section applies to response efforts:

(A) Due to inadequate or incomplete containment and stabilization, there exists a substantial probability that the size of the spill will significantly expand and (i) threaten previously uncontaminated marine or land resources, (ii) threaten already contaminated marine or land resources with substantial additional contamination, or (iii) otherwise endanger the public health and safety or harm the environment.

(B) The remaining work is of such a difficult or perilous nature that extension of the immunity is clearly in the public interest.

(C) No other qualified and financially responsible contractor is prepared and willing to complete the response effort in the absence of the immunity, or a lesser immunity, as negotiated by contract.

(3) The administrator shall provide five days' notice of his or her proposed decision to either extend, or not extend, the immunity conferred by this section. Interested parties shall be given an opportunity to present oral and written evidence at an informal hearing. In making his or her proposed decision, the administrator shall specifically seek and consider the advice of the relevant Coast Guard representative. The administrator's decision to not extend the immunity shall be announced at least 10 working days before the expiration of the immunity to provide persons an opportunity to terminate their response efforts as contemplated by paragraph (4).

(4) No person or their agents, subcontractors, or employees shall incur any liability under this chapter or any other provision of law solely as a result of that person's decision to terminate their response efforts because of the expiration of the immunity conferred by this section. A person's decision to terminate response efforts because of the expiration of the immunity conferred by this section shall not in any manner impair, curtail, limit, or otherwise affect the immunity conferred on the person with regard to the person's response efforts undertaken during the period of time the immunity applied to such response efforts.

(5) The immunity granted under this section shall attach, without the limitation contained in this subdivision, to the response efforts of persons who are not regularly engaged in the business of responding to oil spills. Persons who are not regularly engaged in the business of responding to oil spills includes, but is not limited to, (A) persons who are primarily dedicated to the preservation and rehabilitation of wildlife and (B) persons who derive their livelihood primarily from fishing.

(*l*) As used in this section, "response efforts" means rendering care, assistance, or advice in accordance with the National Contingency Plan, the state oil spill contingency plan, or at the direction of the administrator, onsite coordinator, or the Coast Guard

in response to a spill or threatened spill.

SEC. 5. Section 2.5 of this bill incorporates amendments to Section 8670.48 of the Government Code proposed by both this bill and SB 171. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, (2) each bill amends Section 8670.48 of the Government Code, and (3) this bill is enacted after SB 171, in which case Section 8670.48 of the Government Code, as amended by SB 171, shall remain operative only until the operative date of this bill, at which time Section 2.5 of this bill shall become operative, and Section 2 of this bill shall not become operative.

SEC. 6. Section 3.5 of this bill incorporates amendments to Section 8670.49 of the Government Code proposed by both this bill and SB 171. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, (2) each bill amends Section 8670.49 of the Government Code, and (3) this bill is enacted after SB 171, in which case Section 8670.49 of the Government Code, as amended by SB 171, shall remain operative only until the operative date of this bill, at which time Section 3.5 of this bill shall become operative, and Section 3 of this bill shall not become operative.

CHAPTER 1203

An act to amend Section 25201 of the Health and Safety Code, and to add Section 13263.2 to the Water Code, relating to hazardous waste.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 25201 of the Health and Safety Code is amended to read:

25201. (a) Except as provided in subdivisions (c) and (d) and in Section 25201.5, no owner or operator of a storage facility, treatment facility, transfer facility, resource recovery facility, or disposal site shall accept, treat, store, or dispose of a hazardous waste at the facility, area, or site, unless the owner or operator holds a hazardous waste facilities permit or other grant of authorization from the department to use and operate the facility, area, or site.

(b) Except as necessary to comply with Section 25159.18, any person planning to construct a new hazardous waste facility or a new hazardous waste management unit, which would manage RCRA hazardous waste, shall obtain a hazardous waste facilities permit or a permit amendment from the department prior to commencing construction.

(c) A hazardous waste facilities permit is not required for a household hazardous waste collection facility operated by a public agency, or by any person under a written agreement with a public agency, if all of the following conditions are met:

(1) The collection facility accepts only the following hazardous materials for subsequent transport to an authorized recycling facility or an authorized household hazardous waste collection facility:

(A) Latex paint.

(B) Used oil.

(C) Antifreeze.

(D) Spent lead-acid batteries.

(E) Nickel-cadmium, alkaline, carbon-zinc, or other small batteries, if the collection facility is in compliance with Section 25216.1.

(2) No hazardous wastes are received and handled at the collection facility other than the materials specified in paragraph (1).

(3) The materials are transported to the collection facility by either of the following:

(A) The person who generated the material.

(B) A curbside collection program operated, or authorized to operate, by a public agency.

(4) The combined volume or weight of latex paint, antifreeze, and small batteries transported to the collection facility by any one individual or collected from a single residence at one time does not exceed a total volume of 10 gallons or a total weight of 100 pounds. Up to two spent lead-acid batteries and 20 gallons of used oil may be additionally transported to the collection facility at the same time in the same vehicle.

(5) Used oil transported to the collection facility by either a person or by a curbside collection program shall meet the following conditions, whichever is applicable:

(A) A person that is not a curbside collection program transporting used oil to the collection facility shall not transport more than 20 gallons per shipment, the contents of any single container shall not exceed five gallons, and the volume of each individual container shall not exceed five gallons.

(B) A curbside collection program transporting used oil to a collection facility shall not collect more than five gallons of used oil from a single residence at one time, and the volume of the individual containers collected which contain used oil shall not exceed five gallons.

(6) The materials collected are not stored at the collection facility for more than 180 days, except that less than one ton of spent lead-acid batteries may be stored at the facility for up to one year. Over one ton of lead-acid batteries shall not be stored at the collection facility for more than 180 days.

(7) The materials collected are managed in accordance with the hazardous waste labeling, containerization, emergency response, and personnel training requirements of this chapter.

(8) The public agency, or the person operating the collection facility under a written agreement with a public agency, notifies the department in writing of all of the following:

(A) The facility will be operated in accordance with this section and any other requirements imposed by the department.

(B) The location of the facility, the date the facility will begin operation, and the facility's operating schedule.

(C) The total annual volume of recyclable household hazardous waste actually collected at the facility, and the annual volume of recyclable household hazardous waste actually transported from the facility to recycling facilities.

(d) A hazardous waste facilities permit is not required for a facility that meets the requirements of Section 13263.2 of the Water Code.

SEC. 2. Section 25201 of the Health and Safety Code is amended to read:

25201. (a) Except as provided in subdivisions (c) and (d) and in Section 25201.5, no owner or operator of a storage facility, treatment facility, transfer facility, resource recovery facility, or disposal site shall accept, treat, store, or dispose of a hazardous waste at the facility, area, or site, unless the owner or operator holds a hazardous waste facilities permit or other grant of authorization from the department to use and operate the facility, area, or site.

(b) Except as necessary to comply with Section 25159.18, any person planning to construct a new hazardous waste facility or a new hazardous waste management unit, which would manage RCRA hazardous waste, shall obtain a hazardous waste facilities permit or a permit amendment from the department prior to commencing construction.

(c) A hazardous waste facilities permit is not required for a recycle-only household hazardous waste collection facility operated in accordance with subdivision (b) of Section 25218.8.

(d) A hazardous waste facilities permit is not required for a facility that meets the requirements of Section 13263.2 of the Water Code.

SEC. 3. Section 13263.2 is added to the Water Code, to read:

13263.2. The owner or operator of a facility that treats groundwater which qualifies as a hazardous waste pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code is exempt from the requirement to obtain a hazardous waste facility permit pursuant to Section 25201 of the Health and Safety Code for the treatment of groundwater if all of the following conditions are met:

(a) The facility treats groundwater which is extracted for the purposes of complying with one or more of the following:

(1) Waste discharge requirements prescribed pursuant to Section 13263.

(2) A cleanup or abatement order issued pursuant to Section 13304.

(3) A written authorization issued by a regional board or local agency designated pursuant to Section 25283 of the Health and Safety

Code.

(4) An order or approved remedial action plan issued pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.

(b) The facility meets, at a minimum, all of the following operating standards:

(1) The treatment does not require a hazardous waste facilities permit pursuant to the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sec. 6901 et seq.).

(2) The facility operator prepares and maintains written operating instructions and a record of the dates, amounts, and types of waste treated.

(3) The facility operator prepares and maintains a written inspection schedule and log of inspections conducted.

(4) The records specified in paragraphs (2) and (3) are maintained by the owner or operator of the facility for a period of three years.

(5) The owner or operator maintains adequate records to demonstrate that it is in compliance with all of the pretreatment standards and with all of the applicable industrial waste discharge requirements issued by the agency operating the publicly owned treatment works into which the wastes are discharged.

(6) (A) Upon terminating the operation of any treatment process or unit exempted pursuant to this section, the owner or operator that conducted the treatment removes or decontaminates all waste residues, containment system components, soils, and other structures or equipment contaminated with hazardous waste from the unit. The removal of the unit from service shall be conducted in a manner that does both of the following:

(i) Minimizes the need for further maintenance.

(ii) Eliminates the escape of hazardous waste, hazardous constituents, leachate, contaminated runoff, or waste decomposition products to the environment after the treatment process ceases operation.

(B) Any owner or operator who permanently ceases operation of a treatment process or unit that is exempted pursuant to this section shall provide written notification to the regional board or local agency upon completion of all activities required by this subdivision.

(7) The waste is managed in accordance with all applicable requirements for generators of hazardous waste under Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code and the regulations adopted by the Department of Toxic Substances Control pursuant to that chapter.

(c) The groundwater is treated at the site where it is extracted in compliance with one or more of paragraphs (1), (2), (3), and (4) of subdivision (a).

(d) All other regulatory requirements applicable to the facility pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code are met by the owner or

operator.

(e) The treatment of the contaminated groundwater is not performed under corrective action required by Section 25200.10 of the Health and Safety Code.

SEC. 4. Section 2 of this bill incorporates amendments to Section 25201 of the Health and Safety Code proposed by both this bill and SB 1091. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1994, (2) each bill amends Section 25201 of the Health and Safety Code, and (3) this bill is enacted after SB 1091, in which case Section 1 of this bill shall not become operative.

CHAPTER 1204

An act to add Section 12113 to the Public Contract Code, relating to public agency contracts.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 12113 is added to the Public Contract Code, to read:

12113. (a) Notwithstanding any other provision of law, state and local agencies may enter into agreements to pay for telecommunications services to be utilized beyond the current fiscal year. "Telecommunications services" for purposes of this section shall include, but not be limited to, central office-based leased communications systems equipped with primary station lines, capable of receiving in-dialed voice and data communications and capable of out-dialing voice and data communications and any customer premised equipment, software and installation costs necessary for utilization by the state or local agency.

(b) State and local agencies may enter into financing agreements for the procurement of telecommunications services whenever the state or local agency may derive monetary benefit and greater services as a result of its ability to acquire capital at lower interest cost than the supplier of those services can provide directly to the agency or whenever the state or local agency may obtain a reduced cost of service based on length of agreement if offered by the supplier of telecommunications service.

(c) Procurement requirements for financing of telecommunications equipment and services shall be considered to have been met whenever the financing is within the scope of public sector requests for proposals or whenever the financing is offered by a sole source provider or that provider's assignee.

(d) The provisions of this section shall not be construed to alter

or circumvent any existing procurement procedure or requirement, nor to alter or circumvent the procurement authority of any state or local agency.

CHAPTER 1205

An act to amend Section 22825.17 of the Government Code, relating to state employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 22825.17 of the Government Code is amended to read:

22825.17. Notwithstanding Section 22825.16, a health benefit plan offered by the California Association of Highway Patrolmen pursuant to Section 22790 may rebate funds to participants enrolled in the employee organization's sponsored basic and supplement to Medicare plans in order to ensure that participant out-of-pocket costs remain at a reasonable and competitive level as determined by the Board of Trustees of the California Association of Highway Patrolmen Health Benefits Trust. 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 that is in excess of the amount necessary to fund the risk up to the reinsurance attachment level. Administrative costs incurred by the state shall be reimbursed by the health benefits trust fund for that health benefit plan.

This section shall become operative on July 1, 1992.

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 that the rebate for certain health care costs may be applied most equitably at the earliest possible time, and undue hardship on members of the Public Employees' Retirement System may be avoided, it is necessary that this act take effect immediately.

CHAPTER 1206

An act to amend Section 1157.2 of, and to add Section 1157.6 to, the Health and Safety Code, relating to public health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 1157.2 of the Health and Safety Code is amended to read:

1157.2. Any counties which were eligible for organization and operation of local public health services by the State Department of Health Services pursuant to Section 1157 as of January 1, 1988, shall thereafter continue to be eligible therefor, notwithstanding an increase in total population beyond the 40,000 population limit of that section.

This section shall remain in effect until January 1, 1998, and on that date is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1998, deletes or extends that date.

SEC. 2. Section 1157.6 is added to the Health and Safety Code, to read:

1157.6. (a) Counties contracting with the department pursuant to Section 1157.1 may enter into a contract with the department whereby the department's program that administers the Section 1157.1 contract agrees to assume responsibility for some or all of the administrative activities for some or all of the public health categorical programs of that county listed in subdivision (g). The responsibility for the provision of services under those programs shall remain with the county board of supervisors.

(b) For the purposes of this section, "public health categorical programs" means a public health program that is funded by federal or state allocation supported by specific legislation or regulations, and that is identified by the department to be implemented by local jurisdictions.

(c) Administrative costs, associated with the administration of those contracts between the department and the counties pursuant to this section, shall be capped at the maximum allowable under each of the public health categorical programs.

(d) Each county intending to contract with the department for the fiscal year commencing July 1, 1994, shall submit to the department a notice of intent to contract adopted by the board of supervisors within 60 days of the effective date of this section. For each fiscal year thereafter, a notice of intent to contract adopted by the board of supervisors shall be submitted no later than August 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. A county may withdraw this notice no later than September 15 of the fiscal year preceding the fiscal year for which the agreement will be in effect in accordance with procedures established by the department. If a county fails to withdraw its notice by this date, it shall be responsible for any and all necessary costs incurred by the department in providing or preparing to provide public health services in that county pursuant to this section.

(e) As a condition of contracting with the department, the department may establish uniform standards, forms, and procedures for conducting the administrative activities for those categorical programs.

(f) Any county that elects to contract with the department pursuant to this section shall, after receipt of program funds, pay by the 15th of each month, the agreed-upon contract amount for reimbursement for departmental costs of administration services. If a county does not make the agreed monthly payment, the department may after 60 days' written notice to the county terminate the services provided by the department pursuant to this section.

(g) The programs that may be subject to this section include, but are not limited to, all of the following:

(1) All maternal and child health programs, including, but not limited to, the following:

(A) California Children's Services, Article 2 (commencing with Section 248) of Chapter 2 of Part 1.

(B) Child Health and Disability Prevention Program, Article 3.4 (commencing with Section 320) of Chapter 2 of Part 1.

(C) Perinatal Health Care, Article 2.6 (commencing with Section 289) of Chapter 2 of Part 1.

(2) The California Aids Program, Chapter 1.16 (commencing with Section 199.70) of Part 1.

(3) Tobacco Use Prevention, Chapter 1.2 (commencing with Section 24160) of Division 20.

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:

Due to the precarious state of public health administration in certain counties, and the necessity of enabling those counties to consolidate the administration of public health programs at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 1207

An act to add Section 51226.2 to the Education Code, and to amend Section 2 of Chapter 775 of the Statutes of 1989, relating to education.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. The Legislature finds and declares that consumer and home economics education assists pupils to do all the following:

(a) Develop personal self-esteem.

(b) Acquire skills to become positive family and community members as well as productive members of the state's work force.

(c) Balance home and work life successfully.

(d) Develop skills for positive parenting.

(e) Acquire knowledge and skills that enable individuals to practice good nutrition and develop a lifelong commitment to healthy living.

(f) Develop personal and life management skills.

The Legislature further finds and declares that the most efficient and effective manner to deliver consumer and home economics education instruction is by using a comprehensive approach which assures that content areas are taught as an integrated body of knowledge.

SEC. 2. Section 51226.2 is added to the Education Code, to read:

51226.2. The Superintendent of Public Instruction shall inform county offices of education and each school district that maintains any of grades 6 to 12, inclusive, of the availability of the consumer and home economics education model performance standards and framework. The superintendent shall provide a copy of the consumer and home economics education model performance standards and framework to each county office of education and school district that requests one.

SEC. 3. Section 2 of Chapter 775 of the Statutes of 1989 is amended to read:

Sec. 2. The Superintendent of Public Instruction shall develop model performance standards and a framework for instruction in consumer and home economics. The State Department of Education shall prepare and disseminate information to school districts and county offices of education offering instruction in consumer and home economics education that includes all of the following:

(a) A definition of the content areas as delineated in the consumer and home economics education model curriculum standards and framework as well as the scope and sequence of the instruction to be provided in grades 6 to 12, inclusive.

(b) Guidelines for the incorporation or implementation or incorporation and implementation of the model curriculum

standards into existing consumer and home economics education programs.

(c) A clarification of the qualifications required of personnel assigned to teach consumer and home economics education courses.

(d) A delineation of how consumer and home economics education instruction should be articulated in grades 6 to 12, inclusive, as well as with other home economics occupational programs at the secondary and postsecondary education levels.

(e) Specific information as to how consumer and home economics education courses can be strengthened pursuant to subdivision (b) of Section 51225.3 of the Education Code in adopting alternative means for pupils to complete the prescribed course of study for graduation.

(f) Quality criteria to ensure an effective consumer and home economics education instructional program.

CHAPTER 1208

An act to add Section 1367.67 to the Health and Safety Code, and to add Sections 10123.185 and 11512.24 to the Insurance Code, relating to health coverage.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

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

(1) Osteoporosis, or porous bone, is a condition characterized by an excessive loss of bone tissue and an increased susceptibility to fractures of the hip, spine, and wrist.

(2) An estimated 25 million Americans have osteoporosis, with many cases undiagnosed because the condition develops without symptoms until a strain, bump, or fall causes a fracture.

(3) Between 3 and 4 million Americans have Paget's disease, osteogenesis imperfecta, and other related metabolic bone disorders.

(4) Osteoporosis is responsible for 1,300,000 bone fractures annually, including more than 250,000 hip fractures, 500,000 vertebral fractures, 200,000 fractures of the wrist, and the remaining fractures of other limbs.

(5) Osteoporosis affects one-third to one-half of all postmenopausal women and nearly half of all people over age 75.

(6) Direct medical costs of osteoporosis reached an estimated ten billion dollars ($10,000,000,000) in 1988 for the United States, not including the costs of family care and lost work for caregivers.

(7) Direct medical costs of osteoporosis are expected to increase precipitously because the proportion of the population comprised of

older persons is expanding and each generation of older persons tends to have a higher incidence of osteoporosis than preceding generations.

(8) Technology now exists, and new technology is developing, that will permit early diagnosis of osteoporosis as well as appropriate management of the condition once it has developed.

SEC. 2. Section 1367.67 is added to the Health and Safety Code, immediately following Section 1367.66, to read:

1367.67. Every health care service plan contract that provides hospital, medical, or surgical coverage, that is issued, amended, delivered, or renewed in this state on or after January 1, 1994, shall be deemed to include coverage for services related to diagnosis, treatment, and appropriate management of osteoporosis. The services may include, but need not be limited to, all Food and Drug Administration approved technologies, including bone mass measurement technologies as deemed medically appropriate.

SEC. 3. Section 10123.185 is added to the Insurance Code, immediately following Section 10123.18, to read:

10123.185. (a) Every policy of disability insurance that covers hospital, medical, or surgical expenses and is issued, amended, delivered, or renewed in this state and certificate of group disability insurance issued, amended, delivered, or renewed in this state pursuant to a master group policy issued, amended, delivered, or renewed in another state on or after January 1, 1994, shall be deemed to include coverage for services related to diagnosis, treatment, and appropriate management of osteoporosis. The services may include, but need not be limited to, all Food and Drug Administration approved technologies, including bone mass measurement technologies as deemed medically appropriate.

(b) This section shall not apply to specified accident, specified disease, hospital indemnity, Medicare supplement, or long-term care health insurance policies.

SEC. 4. Section 11512.24 is added to the Insurance Code, to read:

11512.24. Every nonprofit hospital service plan contract that provides hospital, medical, or surgical coverage, that is issued, amended, delivered, or renewed in this state on or after January 1, 1994, shall be deemed to include coverage for services related to diagnosis, treatment, and appropriate management of osteoporosis. The services may include, but need not be limited to, all Food and Drug Administration approved technologies, including bone mass measurement technologies as deemed medically appropriate.

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 1209

An act to add Article 7.5 (commencing with Section 1389.1) to Chapter 2.2 of Division 2 of, the Health and Safety Code, to amend Sections 799.03, 10291.5, 10350.2, 10380, 10508, 12683, and 12684 of, and to add Sections 10112.5 and 10384 to, the Insurance Code, and to add Section 2808 to the Labor Code, relating to insurance.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. This act shall be known and may be cited as the Health Insurance Access and Equity Act.

SEC. 2. The Legislature finds and declares as follows:

(a) Despite having the most advanced medical technology of any country in the world, a large percentage of the population does not have access to health care due to the inability to pay for insurance coverage.

(b) The dramatic increase in medical costs as well as the increasingly restrictive underwriting of applications by insurance companies has further reduced access to health care.

(c) Employers, who have traditionally provided health insurance for their employees, have also been caught in the financial spiral. What was originally an inexpensive fringe benefit has grown until insurance costs are often second only to wages as a business expense. An increasing number of employers, especially small employers, have been forced to reduce or discontinue their group health insurance coverage entirely, leaving even more people uninsured or inadequately insured.

(d) One area of concern to persons acquiring insurance either individually or as part of a group is limitations on coverage due to preexisting conditions. Most contracts contain a provision that limits the benefits a new insured may receive for a condition that existed prior to coverage.

(e) Many Californians with HIV have no health insurance and lack the means to pay for the substantial medical expenses incurred to fight the disease. This fundamental predicament underlies most of the insurance issues relating to HIV.

SEC. 3. Article 7.5 (commencing with Section 1389.1) is added to Chapter 2.2 of Division 2 of the Health and Safety Code, to read:

Article 7.5. Underwriting Practices

1389.1. (a) The commissioner shall not approve any plan contract unless the commissioner finds that the application conforms to both of the following requirements:

(1) All applications for coverage which include health-related questions shall contain clear and unambiguous questions designed to ascertain the health condition or history of the applicant.

(2) The application questions related to an applicant's health shall be based on medical information that is reasonable and necessary for medical underwriting purposes. The application shall include a prominently displayed notice that shall read:

"California law prohibits an HIV test from being required or used by health care service plans as a condition of obtaining coverage."

(b) Nothing in this section shall authorize the commissioner to establish or require a single or standard application form for application questions.

1389.2. At the request of the commissioner, a health care service plan shall provide a written statement of the actuarial basis for any medical underwriting decision on any application form, or contract issued or delivered to, or denied a resident of this state.

1389.3. No health care service plan shall engage in the practice of postclaims underwriting. For purposes of this section, "postclaims underwriting" means the rescinding, canceling, or limiting of a plan contract due to the plan's failure to complete medical underwriting and resolve all reasonable questions arising from written information submitted on or with an application before issuing the plan contract. This section shall not limit a plan's remedies upon a showing of willful misrepresentation.

SEC. 4. Section 799.03 of the Insurance Code is amended to read:

799.03. No insurer shall test for HIV or for the presence of antibodies to HIV for the purpose of determining insurability other than in accordance with the informed consent, counseling, and privacy protection provisions of this article and Article 6.6 (commencing with Section 791). Notwithstanding any other provision of law, this constitutes the exclusive requirements for counseling, informed consent, and privacy protection for that testing.

(a) An insurer that requests an applicant to take an HIV-related test shall obtain the applicant's written informed consent for the test. Written informed consent shall include a description of the test to be performed, including its purpose, potential uses, and limitations, the meaning of its results, procedures for notifying the applicant of the results, and the right to confidential treatment of the results. Prior to the applicant's execution of the consent, the insurer shall:

(1) Provide the applicant printed material describing HIV, its causes and symptoms, the manner in which it is spread, the test or tests used to detect HIV or the HIV antibody, and what a person can do whose test results are positive or negative.

(2) Provide the applicant a list of counseling resources available, where the applicant can obtain assistance in understanding the meaning of the test and its results. The list may be provided from publicly available information.

(b) The insurer shall notify an applicant of a positive test result by notifying the applicant's designated physician. If the applicant tested has not given written consent authorizing a physician to receive the test results, the applicant shall be urged, at the time the applicant is informed of the positive test results, to contact a private physician, the county department of health, the State Department of Health Services, local medical societies, or alternative test sites for appropriate counseling.

(c) The commissioner shall develop and adopt standardized language for the informed consent disclosure form required by this section to be given to any applicant for life or disability income insurance who takes an HIV-related test.

SEC. 5. Section 10112.5 is added to the Insurance Code, to read:

10112.5. Notwithstanding any other provision of law, every policy or certificate of disability insurance covering hospital, medical, or surgical expenses marketed, issued, or delivered to a resident of this state, regardless of the situs of the contract or master group policyholder, shall be subject to the provisions of this code, except those policies of disability insurance that cover hospital, medical, or surgical expenses which are issued outside of California to an employer whose principle place of business and majority of employees are located outside of California.

SEC. 7. Section 10291.5 of the Insurance Code is amended to read:

10291.5. (a) The purpose of this section is to achieve both of the following:

(1) Prevent, in respect to disability insurance, fraud, unfair trade practices, and insurance economically unsound to the insured.

(2) Assure that the language of all insurance policies can be readily understood and interpreted.

(b) The commissioner shall not approve any disability policy for insurance or delivery in this state in any of the following circumstances:

(1) If the commissioner finds that it contains any provision, or has any label, description of its contents, title, heading, backing, or other indication of its provisions which is unintelligible, uncertain, ambiguous, or abstruse, or likely to mislead a person to whom the policy is offered, delivered or issued.

(2) If it contains any provision for payment at a rate, or in an amount (other than the product of rate times the periods for which payments are promised) for loss caused by particular event or events (as distinguished from character of physical injury or illness of the insured) more than triple the lowest rate, or amount, promised in the policy for the same loss caused by any other event or events (loss caused by sickness, loss caused by accident, and different degrees of

disability each being considered, for the purpose of this paragraph, a different loss); or if it contains any provision for payment for any confining loss of time at a rate more than six times the least rate payable for any partial loss of time or more than twice the least rate payable for any nonconfining total loss of time; or if it contains any provision for payment for any nonconfining total loss of time at a rate more than three times the least rate payable for any partial loss of time.

(3) If it contains any provision for payment for disability caused by particular event or events (as distinguished from character of physical injury or illness of the insured) payable for a term more than twice the least term of payment provided by the policy for the same degree of disability caused by any other event or events; or if it contains any benefit for total nonconfining disability payable for lifetime or for more than 12 months and any benefit for partial disability, unless the benefit for partial disability is payable for at least three months; or if it contains any benefit for total confining disability payable for lifetime or for more than 12 months, unless it also contains benefit for total nonconfining disability caused by the same event or events payable for at least three months, and, if it also contains any benefit for partial disability, unless the benefit for partial disability is payable for at least three months. The provisions of this paragraph shall apply separately to accident benefits and to sickness benefits.

(4) If it contains provision or provisions which would have the effect, upon any termination of the policy, of reducing or ending the liability as the insurer would have, but for the termination, for loss of time resulting from accident occurring while the policy is in force or for loss of time commencing while the policy is in force and resulting from sickness contracted while the policy is in force or for other losses resulting from accident occurring or sickness contracted while the policy is in force, and also contains provision or provisions reserving to the insurer the right to cancel or refuse to renew the policy, unless it also contains other provision or provisions the effect of which is that termination of the policy as the result of the exercise by the insurer of any such right shall not reduce or end the liability in respect to the hereinafter specified losses as the insurer would have had under the policy, including its other limitations, conditions, reductions, and restrictions, had the policy not been so terminated.

The specified losses referred to in the preceding paragraph are:

(i) Loss of time which commences while the policy is in force and results from sickness contracted while the policy is in force.

(ii) Loss of time which commences within 20 days following and results from accident occurring while the policy is in force.

(iii) Losses which result from accident occurring or sickness contracted while the policy is in force and arise out of the care or treatment of illness or injury and which occur within 90 days from the termination of the policy or during a period of continuous compensable loss or losses which period commences prior to the end

of such 90 days.

(iv) Losses other than those specified in clause (i), (ii), or (iii) of this paragraph which result from accident occurring or sickness contracted while the policy is in force and which losses occur within 90 days following the accident or the contraction of the sickness.

(5) If by any caption, label, title, or description of contents the policy states, implies, or infers without reasonable qualification that it provides loss of time indemnity for lifetime, or for any period of more than two years, if the loss of time indemnity is made payable only when house confined or only under special contingencies not applicable to other total loss of time indemnity.

(6) If it contains any benefit for total confining disability payable only upon condition that the confinement be of an abnormally restricted nature unless the caption of the part containing any such benefit is accurately descriptive of the nature of the confinement required and unless, if the policy has a description of contents, label, or title, at least one of them contain reference to the nature of the confinement required.

(7) (A) If, irrespective of the premium charged therefor, any benefit of the policy is, or the benefits of the policy as a whole are, not sufficient to be of real economic value to the insured.

(B) In determining whether benefits are of real economic value to the insured, the commissioner shall not differentiate between insureds of the same or similar economic or occupational classes and shall give due consideration to all of the following:

(i) The right of insurers to exercise sound underwriting judgment in the selection and amounts of risks.

(ii) Amount of benefit, length of time of benefit, nature or extent of benefit, or any combination of those factors.

(iii) The relative value in purchasing power of the benefit or benefits.

(iv) Differences in insurance issued on an industrial or other special basis.

(C) To be of real economic value, it shall not be necessary that any benefit or benefits cover the full amount of any loss which might be suffered by reason of the occurrence of any hazard or event insured against.

(8) If it substitutes a specified indemnity upon the occurrence of accidental death for any benefit of the policy, other than a specified indemnity for dismemberment, which would accrue prior to the time of that death or if it contains any provision which has the effect, other than at the election of the insured exercisable within not less than 20 days in the case of benefits specifically limited to the loss by removal of one or more fingers or one or more toes or within not less than 90 days in all other cases, of doing any of the following:

(A) Of substituting, upon the occurrence of the loss of both hands, both feet, one hand and one foot, the sight of both eyes or the sight of one eye and the loss of one hand or one foot, some specified indemnity for any or all benefits under the policy unless the

indemnity so specified is equal to or greater than the total of the benefit or benefits for which such specified indemnity is substituted and which, assuming in all cases that the insured would continue to live, could possibly accrue within four years from the date of such dismemberment under all other provisions of the policy applicable to the particular event or events (as distinguished from character of physical injury or illness) causing the dismemberment.

(B) Of substituting, upon the occurrence of any other dismemberment some specified indemnity for any or all benefits under the policy unless the indemnity so specified is equal to or greater than one-fourth of the total of the benefit or benefits for which the specified indemnity is substituted and which, assuming in all cases that the insured would continue to live, could possibly accrue within four years from the date of the dismemberment under all other provisions of the policy applicable to the particular event or events (as distinguished from character of physical injury or illness) causing the dismemberment.

(C) Of substituting a specified indemnity upon the occurrence of any dismemberment for any benefit of the policy which would accrue prior to the time of dismemberment.

As used in this section, loss of a hand shall be severance at or above the wrist joint, loss of a foot shall be severance at or above the ankle joint, loss of an eye shall be the irrecoverable loss of the entire sight thereof, loss of a finger shall mean at least one entire phalanx thereof and loss of a toe the entire toe.

(9) If it contains provision, other than as provided in Section 10370, reducing any original benefit more than 50 percent on account of age of the insured.

(10) If the insuring clause or clauses contain no reference to the exceptions, limitations, and reductions (if any) or no specific reference to, or brief statement of, each abnormally restrictive exception, limitation, or reduction.

(11) If it contains benefit or benefits for loss or losses from specified diseases only unless:

(A) All of the diseases so specified in each provision granting the benefits fall within some general classification based upon the following:

(i) The part or system of the human body principally subject to all such diseases.

(ii) The similarity in nature or cause of such diseases.

(iii) In case of diseases of an unusually serious nature and protracted course of treatment, the common characteristics of all such diseases with respect to severity of affliction and cost of treatment.

(B) The policy is entitled and each provision granting the benefits is separately captioned in clearly understandable words so as to accurately describe the classification of diseases covered and expressly point out, when that is the case, that not all diseases of the classification are covered.

(12) If it does not contain provision for a grace period of at least the number of days specified below for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force provided, that the grace period to be included in the policy shall be not less than seven days for policies providing for weekly payment of premium, not less than 10 days for policies providing for monthly payment of premium and not less than 31 days for all other policies.

(13) If it fails to conform in any respect with any law of this state.

(c) The commissioner shall not approve any disability policy covering hospital, medical, or surgical expenses unless the commissioner finds that the application conforms to both of the following requirements:

(1) All applications for disability insurance covering hospital, medical, or surgical expenses, except that which is guaranteed issue, which include questions relating to medical conditions shall contain clear and unambiguous questions designed to ascertain the health condition or history of the applicant.

(2) The application questions designed to ascertain the health condition or history of the applicant shall be based on medical information that is reasonable and necessary for medical underwriting purposes. The application shall include a prominently displayed notice that states:

"California law prohibits an HIV test from being required or used by health insurance companies as a condition of obtaining health insurance coverage."

(d) Nothing in this section authorizes the commissioner to establish or require a single or standard application form for application questions.

(e) The commissioner may, from time to time as conditions warrant, after notice and hearing, promulgate such reasonable rules and regulations, and amendments and additions thereto, as are necessary or convenient, to establish, in advance of the submission of policies, the standard or standards conforming to subdivision (b), by which he or she shall disapprove or withdraw approval of any disability policy.

In promulgating any such rule or regulation the commissioner shall give consideration to the criteria herein established and to the desirability of approving for use in policies in this state uniform provisions, nationwide or otherwise, and is hereby granted the authority to consult with insurance authorities of any other state and their representatives individually or by way of convention or committee, to seek agreement upon those provisions.

Any such rule or regulation shall be promulgated in accordance with the procedure provided in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(f) The commissioner may withdraw approval of filing of any policy or other document or matter required to be approved by the

commissioner, or filed with him or her, by this chapter when the commissioner would be authorized to disapprove or refuse filing of the same if originally submitted at the time of the action of withdrawal.

Any such withdrawal shall be in writing and shall specify reasons. An insurer adversely affected by any such withdrawal may, within a period of 30 days following mailing or delivery of the writing containing the withdrawal, by written request secure a hearing to determine whether the withdrawal should be annulled, modified, or confirmed. Unless, at any time, it is mutually agreed to the contrary, a hearing shall be granted and commenced within 30 days following filing of the request and shall proceed with reasonable dispatch to determination. Unless the commissioner in writing in the withdrawal, or subsequent thereto, grants an extension, any such withdrawal shall, in the absence of any such request, be effective, prospectively and not retroactively, on the 91st day following the mailing or delivery of the withdrawal, and, if request for the hearing is filed, on the 91st day following mailing or delivery of written notice of the commissioner's determination.

(g) No proceeding under this section is subject to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(h) Except as provided in subdivision (i), any action taken by the commissioner under this section is subject to review by the courts of this state and proceedings on review shall be in accordance with the Code of Civil Procedure.

Notwithstanding any other provision of law to the contrary, petition for any such review may be filed at any time before the effective date of the action taken by the commissioner. No action of the commissioner shall become effective before the expiration of 20 days after written notice and a copy thereof are mailed or delivered to the person adversely affected, and any action so submitted for review shall not become effective for a further period of 15 days after the filing of the petition in court. The court may stay the effectiveness thereof for a longer period.

(i) This section shall be liberally construed to effectuate the purpose and intentions herein stated; but shall not be construed to grant the commissioner power to fix or regulate rates for disability insurance or prescribe a standard form of disability policy, except that the commissioner shall prescribe a standard supplementary disclosure form for presentation with all disability insurance policies, pursuant to Section 10603.

(j) This section shall be effective on and after July 1, 1950, as to all policies thereafter submitted and on and after January 1, 1951, the commissioner may withdraw approval pursuant to subdivision (d) of any policy thereafter issued or delivered in this state irrespective of when its form may have been submitted or approved, and prior to those dates the provisions of law in effect on January 1, 1949, shall apply to those policies.

(k) Any such policy issued by an insurer to an insured on a form approved by the commissioner, and in accordance with the conditions, if any, contained in the approval, at a time when that approval is outstanding shall, as between the insurer and the insured, or any person claiming under the policy, be conclusively presumed to comply with, and conform to, this section.

SEC. 8. Section 10350.2 of the Insurance Code is amended to read:

10350.2. A disability policy shall contain a provision which shall be in one of the two forms set forth herein. Policies other than noncancellable policies shall use Form A. Noncancellable policies shall use either Form A or Form B. In Form B the clause in parentheses in paragraph (a) may be omitted at the insurer's option. Paragraph (a) in Form A shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during the initial two-year period, nor to limit the application of Sections 10369.2 to 10369.6, inclusive, in the event of misstatement with respect to age or occupation or other insurance.

Form A.

Time Limit on Certain Defenses: (a) After two years from the date of issue of this policy no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such two-year period.

(b) No claim for loss incurred or disability (as defined in the policy) commencing after two years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy.

Form B.

Incontestable: (a) After this policy has been in force for a period of two years during the lifetime of the insured (excluding any period during which the insured is disabled), it shall become incontestable as to the statements contained in the application.

(b) No claim for loss incurred or disability (as defined in the policy) commencing after two years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy.

SEC. 9. Section 10380 of the Insurance Code is amended to read:

10380. The falsity of any statement in the application for any policy covered by this chapter shall not bar the right to recovery under the policy unless such false statement was made with actual intent to deceive or unless it materially affected either the

acceptance of the risk or the hazard assumed by the insurer.

SEC. 10. Section 10384 is added to the Insurance Code, to read:

10384. No insurer issuing or providing any policy of disability insurance covering hospital, medical, or surgical expenses shall engage in the practice of postclaims underwriting. For purposes of this section, "postclaims underwriting" means the rescinding, canceling or limiting of a policy or certificate due to the insurer's failure to complete medical underwriting and resolve all reasonable questions arising from written information submitted on or with an application before issuing the policy or certificate.

SEC. 11. Section 10508 of the Insurance Code is amended to read:

10508. (a) It is the obligation of every insurer admitted in this state to transact life or disability insurance, or both, to maintain certain records specified in this article pertaining to the activities of its life, life and disability, and disability agents and any other agents for the inspection and examination of the commissioner.

(b) The original or certified copies of the records shall be delivered to the commissioner within a period of 30 days following receipt of written demand therefor.

(c) The records required to be maintained or made available in this state may be in the form of originals, carbon, or facsimile copies, microfilm copies, or electronic data-processing records if printouts are available within a reasonable period of time, and shall include, to the extent the data are pertinent and available for each insurance transaction, the names, dates, amounts and policy numbers involved. The records are composed of all of the following:

(1) The original application for each insurance policy or contract sold in this state.

(2) Records showing, for each insurance policy or contract issued, the premiums received by the insurer.

(3) Production records showing all insurance policies or contracts sold by each agent or other agent in the expired portion of the current calendar year and the whole of each of the preceding five calendar years.

(4) Records showing, for each insurance policy or contract issued, the amount of commissions paid and to whom.

(5) Records or memoranda identifying any agent other, than the agent whose name appears on the application who, to the actual knowledge of the insurer, handled any part of an insurance transaction for which the other agent was not compensated.

(6) Correspondence, written solicitations or proposals, or other written communications sent by the insurer to a prospect, applicant, or insured, or received from him or her by the insurer, excluding printed material in general use distributed by the insurer, either directly or indirectly through its life agents.

(7) Correspondence, written proposals, notices, a statement of reasons, or other written communications, if any, pertaining to the rescission, termination, or nonrenewal of a policy or contract, or the election of nonforfeiture values thereunder, sent by an insurer to a

policyholder or contractholder or received from him or her by an insurer.

(8) A copy of a written comparison of benefits, limitations, exclusions, and costs of existing accident, sickness, or long-term care coverage and proposed coverage.

(9) A copy of the outline of coverage or disclosure statement required by law or regulation.

(10) Copies of any correspondence between the policyholder or prospective policyholder and the agent or insurer.

(11) Copies of correspondence between anyone acting on behalf of the policyholder or prospective policyholder and the agent or insurer.

(d) Except as otherwise provided, the records shall be maintained for a minimum period of two years following the actual delivery of the insurance policy or contract to which each pertains, or, if no policy or contract was issued, for a minimum period of two years after the date of the application therefor.

SEC. 12. Section 12683 of the Insurance Code is amended to read:

12683. Subject to the provisions and conditions of this part, if the group policy from which conversion is made covers the employee or member for basic hospital or surgical expense, the employee or member shall be entitled to obtain a converted policy providing at least the following minimum benefits:

(a) Plan A.

(1) Hospital room and board daily expense benefits up to two hundred dollars ($200) for a duration of 70 days.

(2) Miscellaneous hospital expense benefits up to an amount of 10 times the hospital room and board daily expense benefits.

(3) Surgical expense benefits according to a surgical procedures schedule consistent with those customarily offered by the insurer under a group or individual health insurance policy and providing a maximum benefit of four thousand eight hundred dollars ($4,800).

(b) Plan B—75 percent of the dollar amounts of Plan A.

(c) Plan C—50 percent of the dollar amounts of Plan A.

(d) The maximum dollar amount for Plan A's hospital room and board daily expense and surgical benefit may be redetermined by the Insurance Commissioner as to conversion coverage issued subsequent to that redetermination. The redetermination shall not be made more often than once in three years. The maximum dollar amount redetermined by the commissioner for hospital room and board shall not exceed 80 percent of the average semiprivate room rate then charged in the state.

(e) Covered expenses under this section shall include benefits for expense incurred by the employee, member, or spouse in connection with pregnancy, provided that:

(1) The pregnancy commenced while covered under the group policy from which conversion was made.

(2) The expense is of a type which would have been covered under such group policy.

(3) The conversion policy is in force when the expense is incurred.

SEC. 13. Section 12684 of the Insurance Code is amended to read:

12684. Subject to the provisions and conditions of this part, if the group policy from which conversion is made provides the employee or member with major medical or comprehensive medical insurance, the employee or member shall be entitled to obtain a converted policy providing comprehensive medical coverage providing at least the following benefits:

(a) A payment per covered person for all covered medical expenses incurred during the person's lifetime equal to one hundred thousand dollars ($100,000); provided, however, that for treatment of mental illness payment may be limited to ten thousand dollars ($10,000) during the person's lifetime.

(b) Payment of benefits at the rate of 75 percent of covered medical expenses; provided, however, that if coverage is provided for expenses incurred for outpatient treatment of mental illness, payment of benefits may be at the rate of 50 percent of such covered expenses, and the insurer may limit the amount of covered expense for each outpatient visit and the amount of benefits payable for expenses incurred during each calendar year for that outpatient treatment.

(c) A cash deductible for each benefit period at the option of the insured of two hundred dollars ($200), five hundred dollars ($500), or one thousand dollars ($1,000), but not less than the cash deductible which applied to the insured under the group policy which entitles him or her to a converted policy.

(d) Covered medical expenses shall include the charges for a semiprivate hospital room and board, but need not exceed the lesser of two hundred dollars ($200) per day or the hospital's most common charge for a semiprivate room, covered expenses for intensive care shall be at least two and one-half times the covered hospital room and board charge. The maximum dollar amount for hospital room and board daily covered expense may be redetermined by the commissioner as to conversion coverage issued after the redetermination. That redetermination shall not be made more often than once in three years. The maximum dollar amount redetermined by the commissioner shall not exceed the average semiprivate room rate then charged in the state.

(e) Covered expenses under this section shall include benefits for expense incurred by the employee, member, or spouse in connection with pregnancy, provided that:

(1) The pregnancy commenced while covered under the group policy from which conversion was made.

(2) The expense is of a type which would have been covered under such group policy.

(3) The conversion policy is in force when the expense is incurred.

(f) Covered expense under this section need not include expense

for dental or vision care, or other optional benefits not normally offered by the insurer under a major medical or comprehensive medical expense plan.

SEC. 14. Section 2808 is added to the Labor Code, to read:

2808. (a) It is the responsibility of all employers, whether public or private, to provide to all eligible employees an outline of coverage or similar explanation of all benefits provided under employer-sponsored health coverage, including, but not limited to, provider information for health maintenance organizations and preferred provider organizations.

(b) All employers, whether public or private, shall provide to employees, upon termination, notification of all continuation, disability extension, and conversion coverage options under any employer-sponsored coverage for which the employee may remain eligible after employment with that employer terminates.

CHAPTER 1210

An act to add Article 7.5 (commencing with Section 1389.1) to Chapter 2.2 of Division 2 of the Health and Safety Code, to amend Sections 799.03, 10291.5, 10350.2, 10508, 12683, and 12684 of, and to add Sections 10112.5 and 10384 to, the Insurance Code, and to add Section 2808 to the Labor Code, relating to insurance.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. This act shall be known and may be cited as the Health Insurance Access and Equity Act.

SEC. 2. The Legislature finds and declares as follows:

(a) Despite having the most advanced medical technology of any country in the world, a large percentage of the population does not have access to health care due to the inability to pay for insurance coverage.

(b) The dramatic increase in medical costs as well as the increasingly restrictive underwriting of applications by insurance companies has further reduced access to health care.

(c) Employers, who have traditionally provided health insurance for their employees, have also been caught in the financial spiral. What was originally an inexpensive fringe benefit has grown until insurance costs are often second only to wages as a business expense. An increasing number of employers, especially small employers, have been forced to reduce or discontinue their group health insurance coverage entirely, leaving even more people uninsured or inadequately insured.

(d) One area of concern to persons acquiring insurance either

individually or as part of a group is limitations on coverage due to preexisting conditions. Most contracts contain a provision that limits the benefits a new insured may receive for a condition that existed prior to coverage.

(e) Many Californians with HIV have no health insurance and lack the means to pay for the substantial medical expenses incurred to fight the disease. This fundamental predicament underlies most of the insurance issues relating to HIV.

SEC. 3. Article 7.5 (commencing with Section 1389.1) is added to Chapter 2.2 of Division 2 of the Health and Safety Code, to read:

Article 7.5. Underwriting Practices

1389.1. (a) The commissioner shall not approve any plan contract unless the commissioner finds that the application conforms to both of the following requirements:

(1) All applications for coverage which include health-related questions shall contain clear and unambiguous questions designed to ascertain the health condition or history of the applicant.

(2) The application questions related to an applicant's health shall be based on medical information that is reasonable and necessary for medical underwriting purposes. The application shall include a prominently displayed notice that shall read:

"California law prohibits an HIV test from being required or used by health care service plans as a condition of obtaining coverage."

(b) Nothing in this section shall authorize the commissioner to establish or require a single or standard application form for application questions.

1389.2. At the request of the commissioner, a health care service plan shall provide a written statement of the actuarial basis for any medical underwriting decision on any application form, or contract issued or delivered to, or denied a resident of this state.

1389.3. No health care service plan shall engage in the practice of postclaims underwriting. For purposes of this section, "postclaims underwriting" means the rescinding, canceling, or limiting of a plan contract due to the plan's failure to complete medical underwriting and resolve all reasonable questions arising from written information submitted on or with an application before issuing the plan contract. This section shall not limit a plan's remedies upon a showing of willful misrepresentation.

SEC. 4. Section 799.03 of the Insurance Code is amended to read:

799.03. No insurer shall test for HIV or for the presence of antibodies to HIV for the purpose of determining insurability other than in accordance with the informed consent, counseling, and privacy protection provisions of this article and Article 6.6 (commencing with Section 791). Notwithstanding any other provision of law, this constitutes the exclusive requirements for counseling, informed consent, and privacy protection for that testing.

(a) An insurer that requests an applicant to take an HIV-related test shall obtain the applicant's written informed consent for the test. Written informed consent shall include a description of the test to be performed, including its purpose, potential uses, and limitations, the meaning of its results, procedures for notifying the applicant of the results, and the right to confidential treatment of the results. Prior to the applicant's execution of the consent, the insurer shall:

(1) Provide the applicant printed material describing HIV, its causes and symptoms, the manner in which it is spread, the test or tests used to detect HIV or the HIV antibody, and what a person can do whose test results are positive or negative.

(2) Provide the applicant a list of counseling resources available, where the applicant can obtain assistance in understanding the meaning of the test and its results. The list may be provided from publicly available information.

(b) The insurer shall notify an applicant of a positive test result by notifying the applicant's designated physician. If the applicant tested has not given written consent authorizing a physician to receive the test results, the applicant shall be urged, at the time the applicant is informed of the positive test results, to contact a private physician, the county department of health, the State Department of Health Services, local medical societies, or alternative test sites for appropriate counseling.

(c) The commissioner shall develop and adopt standardized language for the informed consent disclosure form required by this section to be given to any applicant for life or disability income insurance who takes an HIV-related test.

SEC. 5. Section 10112.5 is added to the Insurance Code, to read:

10112.5. Notwithstanding any other provision of law, every policy or certificate of disability insurance covering hospital, medical, or surgical expenses marketed, issued, or delivered to a resident of this state, regardless of the situs of the contract or master group policyholder, shall be subject to the provisions of this code, except those policies of disability insurance that cover hospital, medical, or surgical expenses which are issued outside of California to an employer whose principle place of business and majority of employees are located outside of California.

SEC. 6. Section 10291.5 of the Insurance Code is amended to read:

10291.5. (a) The purpose of this section is to achieve both of the following:

(1) Prevent, in respect to disability insurance, fraud, unfair trade practices, and insurance economically unsound to the insured.

(2) Assure that the language of all insurance policies can be readily understood and interpreted.

(b) The commissioner shall not approve any disability policy for insurance or delivery in this state in any of the following circumstances:

(1) If the commissioner finds that it contains any provision, or has

any label, description of its contents, title, heading, backing, or other indication of its provisions which is unintelligible, uncertain, ambiguous, or abstruse, or likely to mislead a person to whom the policy is offered, delivered or issued.

(2) If it contains any provision for payment at a rate, or in an amount (other than the product of rate times the periods for which payments are promised) for loss caused by particular event or events (as distinguished from character of physical injury or illness of the insured) more than triple the lowest rate, or amount, promised in the policy for the same loss caused by any other event or events (loss caused by sickness, loss caused by accident, and different degrees of disability each being considered, for the purpose of this paragraph, a different loss); or if it contains any provision for payment for any confining loss of time at a rate more than six times the least rate payable for any partial loss of time or more than twice the least rate payable for any nonconfining total loss of time; or if it contains any provision for payment for any nonconfining total loss of time at a rate more than three times the least rate payable for any partial loss of time.

(3) If it contains any provision for payment for disability caused by particular event or events (as distinguished from character of physical injury or illness of the insured) payable for a term more than twice the least term of payment provided by the policy for the same degree of disability caused by any other event or events; or if it contains any benefit for total nonconfining disability payable for lifetime or for more than 12 months and any benefit for partial disability, unless the benefit for partial disability is payable for at least three months; or if it contains any benefit for total confining disability payable for lifetime or for more than 12 months, unless it also contains benefit for total nonconfining disability caused by the same event or events payable for at least three months, and, if it also contains any benefit for partial disability, unless the benefit for partial disability is payable for at least three months. The provisions of this paragraph shall apply separately to accident benefits and to sickness benefits.

(4) If it contains provision or provisions which would have the effect, upon any termination of the policy, of reducing or ending the liability as the insurer would have, but for the termination, for loss of time resulting from accident occurring while the policy is in force or for loss of time commencing while the policy is in force and resulting from sickness contracted while the policy is in force or for other losses resulting from accident occurring or sickness contracted while the policy is in force, and also contains provision or provisions reserving to the insurer the right to cancel or refuse to renew the policy, unless it also contains other provision or provisions the effect of which is that termination of the policy as the result of the exercise by the insurer of any such right shall not reduce or end the liability in respect to the hereinafter specified losses as the insurer would have had under the policy, including its other limitations, conditions,

reductions, and restrictions, had the policy not been so terminated.

The specified losses referred to in the preceding paragraph are:

(i) Loss of time which commences while the policy is in force and results from sickness contracted while the policy is in force.

(ii) Loss of time which commences within 20 days following and results from accident occurring while the policy is in force.

(iii) Losses which result from accident occurring or sickness contracted while the policy is in force and arise out of the care or treatment of illness or injury and which occur within 90 days from the termination of the policy or during a period of continuous compensable loss or losses which period commences prior to the end of such 90 days.

(iv) Losses other than those specified in clause (i), (ii), or (iii) of this paragraph which result from accident occurring or sickness contracted while the policy is in force and which losses occur within 90 days following the accident or the contraction of the sickness.

(5) If by any caption, label, title, or description of contents the policy states, implies, or infers without reasonable qualification that it provides loss of time indemnity for lifetime, or for any period of more than two years, if the loss of time indemnity is made payable only when house confined or only under special contingencies not applicable to other total loss of time indemnity.

(6) If it contains any benefit for total confining disability payable only upon condition that the confinement be of an abnormally restricted nature unless the caption of the part containing any such benefit is accurately descriptive of the nature of the confinement required and unless, if the policy has a description of contents, label, or title, at least one of them contain reference to the nature of the confinement required.

(7) (A) If, irrespective of the premium charged therefor, any benefit of the policy is, or the benefits of the policy as a whole are, not sufficient to be of real economic value to the insured.

(B) In determining whether benefits are of real economic value to the insured, the commissioner shall not differentiate between insureds of the same or similar economic or occupational classes and shall give due consideration to all of the following:

(i) The right of insurers to exercise sound underwriting judgment in the selection and amounts of risks.

(ii) Amount of benefit, length of time of benefit, nature or extent of benefit, or any combination of those factors.

(iii) The relative value in purchasing power of the benefit or benefits.

(iv) Differences in insurance issued on an industrial or other special basis.

(C) To be of real economic value, it shall not be necessary that any benefit or benefits cover the full amount of any loss which might be suffered by reason of the occurrence of any hazard or event insured against.

(8) If it substitutes a specified indemnity upon the occurrence of

accidental death for any benefit of the policy, other than a specified indemnity for dismemberment, which would accrue prior to the time of that death or if it contains any provision which has the effect, other than at the election of the insured exercisable within not less than 20 days in the case of benefits specifically limited to the loss by removal of one or more fingers or one or more toes or within not less than 90 days in all other cases, of doing any of the following:

(A) Of substituting, upon the occurrence of the loss of both hands, both feet, one hand and one foot, the sight of both eyes or the sight of one eye and the loss of one hand or one foot, some specified indemnity for any or all benefits under the policy unless the indemnity so specified is equal to or greater than the total of the benefit or benefits for which such specified indemnity is substituted and which, assuming in all cases that the insured would continue to live, could possibly accrue within four years from the date of such dismemberment under all other provisions of the policy applicable to the particular event or events (as distinguished from character of physical injury or illness) causing the dismemberment.

(B) Of substituting, upon the occurrence of any other dismemberment some specified indemnity for any or all benefits under the policy unless the indemnity so specified is equal to or greater than one-fourth of the total of the benefit or benefits for which the specified indemnity is substituted and which, assuming in all cases that the insured would continue to live, could possibly accrue within four years from the date of the dismemberment under all other provisions of the policy applicable to the particular event or events (as distinguished from character of physical injury or illness) causing the dismemberment.

(C) Of substituting a specified indemnity upon the occurrence of any dismemberment for any benefit of the policy which would accrue prior to the time of dismemberment.

As used in this section, loss of a hand shall be severance at or above the wrist joint, loss of a foot shall be severance at or above the ankle joint, loss of an eye shall be the irrecoverable loss of the entire sight thereof, loss of a finger shall mean at least one entire phalanx thereof and loss of a toe the entire toe.

(9) If it contains provision, other than as provided in Section 10370, reducing any original benefit more than 50 percent on account of age of the insured.

(10) If the insuring clause or clauses contain no reference to the exceptions, limitations, and reductions (if any) or no specific reference to, or brief statement of, each abnormally restrictive exception, limitation, or reduction.

(11) If it contains benefit or benefits for loss or losses from specified diseases only unless:

(A) All of the diseases so specified in each provision granting the benefits fall within some general classification based upon the following:

(i) The part or system of the human body principally subject to

all such diseases.

(ii) The similarity in nature or cause of such diseases.

(iii) In case of diseases of an unusually serious nature and protracted course of treatment, the common characteristics of all such diseases with respect to severity of affliction and cost of treatment.

(B) The policy is entitled and each provision granting the benefits is separately captioned in clearly understandable words so as to accurately describe the classification of diseases covered and expressly point out, when that is the case, that not all diseases of the classification are covered.

(12) If it does not contain provision for a grace period of at least the number of days specified below for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force provided, that the grace period to be included in the policy shall be not less than seven days for policies providing for weekly payment of premium, not less than 10 days for policies providing for monthly payment of premium and not less than 31 days for all other policies.

(13) If it fails to conform in any respect with any law of this state.

(c) The commissioner shall not approve any disability policy covering hospital, medical, or surgical expenses unless the commissioner finds that the application conforms to both of the following requirements:

(1) All applications for disability insurance covering hospital, medical, or surgical expenses, except that which is guaranteed issue, which include questions relating to medical conditions, shall contain clear and unambiguous questions designed to ascertain the health condition or history of the applicant.

(2) The application questions designed to ascertain the health condition or history of the applicant shall be based on medical information that is reasonable and necessary for medical underwriting purposes. The application shall include a prominently displayed notice that states:

"California law prohibits an HIV test from being required or used by health insurance companies as a condition of obtaining health insurance coverage."

(d) Nothing in this section authorizes the commissioner to establish or require a single or standard application form for application questions.

(e) The commissioner may, from time to time as conditions warrant, after notice and hearing, promulgate such reasonable rules and regulations, and amendments and additions thereto, as are necessary or convenient, to establish, in advance of the submission of policies, the standard or standards conforming to subdivision (b), by which he or she shall disapprove or withdraw approval of any disability policy.

In promulgating any such rule or regulation the commissioner shall give consideration to the criteria herein established and to the

desirability of approving for use in policies in this state uniform provisions, nationwide or otherwise, and is hereby granted the authority to consult with insurance authorities of any other state and their representatives individually or by way of convention or committee, to seek agreement upon those provisions.

Any such rule or regulation shall be promulgated in accordance with the procedure provided in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(f) The commissioner may withdraw approval of filing of any policy or other document or matter required to be approved by the commissioner, or filed with him or her, by this chapter when the commissioner would be authorized to disapprove or refuse filing of the same if originally submitted at the time of the action of withdrawal.

Any such withdrawal shall be in writing and shall specify reasons. An insurer adversely affected by any such withdrawal may, within a period of 30 days following mailing or delivery of the writing containing the withdrawal, by written request secure a hearing to determine whether the withdrawal should be annulled, modified, or confirmed. Unless, at any time, it is mutually agreed to the contrary, a hearing shall be granted and commenced within 30 days following filing of the request and shall proceed with reasonable dispatch to determination. Unless the commissioner in writing in the withdrawal, or subsequent thereto, grants an extension, any such withdrawal shall, in the absence of any such request, be effective, prospectively and not retroactively, on the 91st day following the mailing or delivery of the withdrawal, and, if request for the hearing is filed, on the 91st day following mailing or delivery of written notice of the commissioner's determination.

(g) No proceeding under this section is subject to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(h) Except as provided in subdivision (i), any action taken by the commissioner under this section is subject to review by the courts of this state and proceedings on review shall be in accordance with the Code of Civil Procedure.

Notwithstanding any other provision of law to the contrary, petition for any such review may be filed at any time before the effective date of the action taken by the commissioner. No action of the commissioner shall become effective before the expiration of 20 days after written notice and a copy thereof are mailed or delivered to the person adversely affected, and any action so submitted for review shall not become effective for a further period of 15 days after the filing of the petition in court. The court may stay the effectiveness thereof for a longer period.

(i) This section shall be liberally construed to effectuate the purpose and intentions herein stated; but shall not be construed to grant the commissioner power to fix or regulate rates for disability

insurance or prescribe a standard form of disability policy, except that the commissioner shall prescribe a standard supplementary disclosure form for presentation with all disability insurance policies, pursuant to Section 10603.

(j) This section shall be effective on and after July 1, 1950, as to all policies thereafter submitted and on and after January 1, 1951, the commissioner may withdraw approval pursuant to subdivision (d) of any policy thereafter issued or delivered in this state irrespective of when its form may have been submitted or approved, and prior to those dates the provisions of law in effect on January 1, 1949, shall apply to those policies.

(k) Any such policy issued by an insurer to an insured on a form approved by the commissioner, and in accordance with the conditions, if any, contained in the approval, at a time when that approval is outstanding shall, as between the insurer and the insured, or any person claiming under the policy, be conclusively presumed to comply with, and conform to, this section.

SEC. 7. Section 10350.2 of the Insurance Code is amended to read:

10350.2. A disability policy shall contain a provision which shall be in one of the two forms set forth herein. Policies other than noncancellable policies shall use Form A. Noncancellable policies shall use either Form A or Form B. In Form B the clause in parentheses in paragraph (a) may be omitted at the insurer's option. Paragraph (a) in Form A shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during the initial two-year period, nor to limit the application of Sections 10369.2 to 10369.6, inclusive, in the event of misstatement with respect to age or occupation or other insurance.

Form A.

Time Limit on Certain Defenses: (a) After two years from the date of issue of this policy no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such two-year period.

(b) No claim for loss incurred or disability (as defined in the policy) commencing after two years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy.

Form B.

Incontestable: (a) After this policy has been in force for a period of two years during the lifetime of the insured (excluding any period during which the insured is disabled), it shall become incontestable as to the statements contained in the application.

(c) No claim for loss incurred or disability (as defined in the policy) commencing after two years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy.

SEC. 8. Section 10384 is added to the Insurance Code, to read:

10384. No insurer issuing or providing any policy of disability insurance covering hospital, medical, or surgical expenses shall engage in the practice of postclaims underwriting. For purposes of this section, "postclaims underwriting" means the rescinding, canceling, or limiting of a policy or certificate due to the insurer's failure to complete medical underwriting and resolve all reasonable questions arising from written information submitted on or with an application before issuing the policy or certificate.

SEC. 9. Section 10508 of the Insurance Code is amended to read:

10508. (a) It is the obligation of every insurer admitted in this state to transact life or disability insurance, or both, to maintain certain records specified in this article pertaining to the activities of its life, life and disability, and disability agents and any other agents for the inspection and examination of the commissioner.

(b) The original or certified copies of the records shall be delivered to the commissioner within a period of 30 days following receipt of written demand therefor.

(c) The records required to be maintained or made available in this state may be in the form of originals, carbon, or facsimile copies, microfilm copies, or electronic data-processing records if printouts are available within a reasonable period of time, and shall include, to the extent the data are pertinent and available for each insurance transaction, the names, dates, amounts and policy numbers involved. The records are composed of all of the following:

(1) The original application for each insurance policy or contract sold in this state.

(2) Records showing, for each insurance policy or contract issued, the premiums received by the insurer.

(3) Production records showing all insurance policies or contracts sold by each agent or other agent in the expired portion of the current calendar year and the whole of each of the preceding five calendar years.

(4) Records showing, for each insurance policy or contract issued, the amount of commissions paid and to whom.

(5) Records or memoranda identifying any agent other, than the agent whose name appears on the application who, to the actual knowledge of the insurer, handled any part of an insurance transaction for which the other agent was not compensated.

(6) Correspondence, written solicitations or proposals, or other written communications sent by the insurer to a prospect, applicant, or insured, or received from him or her by the insurer, excluding

printed material in general use distributed by the insurer, either directly or indirectly through its life agents.

(7) Correspondence, written proposals, notices, a statement of reasons, or other written communications, if any, pertaining to the recision, termination, or nonrenewal of a policy or contract, or the election of nonforfeiture values thereunder, sent by an insurer to a policyholder or contract holder or received from him or her by an insurer.

(8) A copy of a written comparison of benefits, limitations, exclusions, and costs of existing accident, sickness, or long-term care coverage and proposed coverage.

(9) A copy of the outline of coverage or disclosure statement required by law or regulation.

(10) Copies of any correspondence between the policyholder or prospective policyholder and the agent or insurer.

(11) Copies of correspondence between anyone acting on behalf of the policyholder or prospective policyholder and the agent or insurer.

(d) Except as otherwise provided, the records shall be maintained for a minimum period of two years following the actual delivery of the insurance policy or contract to which each pertains, or, if no policy or contract was issued, for a minimum period of two years after the date of the application therefor.

SEC. 10. Section 12683 of the Insurance Code is amended to read:

12683. Subject to the provisions and conditions of this part, if the group policy from which conversion is made covers the employee or member for basic hospital or surgical expense, the employee or member shall be entitled to obtain a converted policy providing at least the following minimum benefits:

(a) Plan A.

(1) Hospital room and board daily expense benefits up to two hundred dollars ($200) for a duration of 70 days.

(2) Miscellaneous hospital expense benefits up to an amount of 10 times the hospital room and board daily expense benefits.

(3) Surgical expense benefits according to a surgical procedures schedule consistent with those customarily offered by the insurer under a group or individual health insurance policy and providing a maximum benefit of four thousand eight hundred dollars ($4,800).

(b) Plan B—75 percent of the dollar amounts of Plan A.

(c) Plan C—50 percent of the dollar amounts of Plan A.

(d) The maximum dollar amount for Plan A's hospital room and board daily expense and surgical benefit may be redetermined by the Insurance Commissioner as to conversion coverage issued subsequent to that redetermination. The redetermination shall not be made more often than once in three years. The maximum dollar amount redetermined by the commissioner for hospital room and board shall not exceed 80 percent of the average semiprivate room rate then charged in the state.

(e) Covered expenses under this section shall include benefits for

expense incurred by the employee, member, or spouse in connection with pregnancy, provided that:

(1) The pregnancy commenced while covered under the group policy from which conversion was made.

(2) The expense is of a type which would have been covered under such group policy.

(3) The conversion policy is in force when the expense is incurred.

SEC. 11. Section 12684 of the Insurance Code is amended to read:

12684. Subject to the provisions and conditions of this part, if the group policy from which conversion is made provides the employee or member with major medical or comprehensive medical insurance, the employee or member shall be entitled to obtain a converted policy providing comprehensive medical coverage providing at least the following benefits:

(a) A payment per covered person for all covered medical expenses incurred during the person's lifetime equal to one hundred thousand dollars ($100,000); provided, however, that for treatment of mental illness payment may be limited to ten thousand dollars ($10,000) during the person's lifetime.

(b) Payment of benefits at the rate of 75 percent of covered medical expenses; provided, however, that if coverage is provided for expenses incurred for outpatient treatment of mental illness, payment of benefits may be at the rate of 50 percent of such covered expenses, and the insurer may limit the amount of covered expense for each outpatient visit and the amount of benefits payable for expenses incurred during each calendar year for that outpatient treatment.

(c) A cash deductible for each benefit period at the option of the insured of two hundred dollars ($200), five hundred dollars ($500), or one thousand dollars ($1,000), but not less than the cash deductible which applied to the insured under the group policy which entitles him or her to a converted policy.

(d) Covered medical expenses shall include the charges for a semiprivate hospital room and board, but need not exceed the lesser of two hundred dollars ($200) per day or the hospital's most common charge for a semiprivate room, covered expenses for intensive care shall be at least two and one-half times the covered hospital room and board charge. The maximum dollar amount for hospital room and board daily covered expense may be redetermined by the commissioner as to conversion coverage issued after the redetermination. That redetermination shall not be made more often than once in three years. The maximum dollar amount redetermined by the commissioner shall not exceed the average semiprivate room rate then charged in the state.

(e) Covered expenses under this section shall include benefits for expense incurred by the employee, member, or spouse in connection with pregnancy, provided that:

(1) The pregnancy commenced while covered under the group

policy from which conversion was made.

(2) The expense is of a type which would have been covered under such group policy.

(3) The conversion policy is in force when the expense is incurred.

(f) Covered expense under this section need not include expense for dental or vision care, or other optional benefits not normally offered by the insurer under a major medical or comprehensive medical expense plan.

SEC. 12. Section 2808 is added to the Labor Code, to read:

2808. (a) It is the responsibility of all employers, whether public or private, to provide to all eligible employees an outline of coverage or similar explanation of all benefits provided under employer-sponsored health coverage, including, but not limited to, provider information for health maintenance organizations and preferred provider organizations.

(b) All employers, whether public or private, shall provide to employees, upon termination, notification of all continuation, disability extension, and conversion coverage options under any employer-sponsored coverage for which the employee may remain eligible after employment with that employer terminates.

CHAPTER 1211

An act to repeal and add Chapter 5.6 (commencing with Section 19994.30) of Part 2.6 of Division 5 of Title 2 of the Government Code, relating to smoking.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Chapter 5.6 (commencing with Section 19994.30) of Part 2.6 of Division 5 of Title 2 of the Government Code is repealed.

SEC. 2. Chapter 5.6 (commencing with Section 19994.30) is added to Part 2.6 of Division 5 of Title 2 of the Government Code, to read:

CHAPTER 5.6. SMOKING IN STATE BUILDINGS

19994.30. As used in this chapter:

(a) "Building" means a building owned and occupied, or leased and occupied, by the state.

(b) (1) "Inside a state-owned and state-occupied building" includes all indoor areas of the building, except for covered parking lots, residential space, and state prison yard areas.

(2) "Inside a state-leased and state-occupied building" includes

any indoor space leased to the state, except for covered parking lots, and residential space.

(3) "Residential space" means a private living area, but it does not include common areas such as lobbies, lounges, waiting areas, elevators, stairwells, and restrooms that are a structural part of a multicomplex building such as a dormitory.

(c) "State" or "state agency" means a state agency, as defined pursuant to Section 11000, the Legislature, the Supreme Court and the courts of appeal, and each California Community College campus and each campus of the California State University and the University of California.

(d) "State employee" means an employee of a state agency.

19994.31. Commencing January 1, 1994, no state employee or member of the public shall smoke any tobacco product inside a state-owned and state-occupied or a state-leased and state-occupied building, or, in an outdoor area within five feet of a main exit or entrance to such a building, or in a passenger vehicle, as defined by Section 465 of the Vehicle Code, owned by the state.

19994.32. Except as specified in Section 19994.31, a state employee or other person may smoke in any outdoor area of a state-owned and state-occupied or a state-leased and state-occupied building unless otherwise prohibited by state law and a sign describing the prohibition is posted by the state agency or other appropriate entity.

19994.33. (a) The State Department of Health Services may develop guidelines for the content and effective presentation of tobacco smoking control programs designed to assist an individual in either a self-help or group environment. The guidelines may be distributed to state agencies. The State Department of Health Services may provide a copy of the guidelines to any individual or group, upon request, and may charge a fee that shall not exceed the actual cost of producing a copy.

(b) State agencies may offer tobacco smoking control programs to their employees. A state agency may use existing employee training funds to pay for the presentation of tobacco smoking control programs offered to state employees at a state-owned or state-leased building during normal work hours.

(c) Not later than January 31, 1994, and thereafter upon initial employment, each state agency shall inform its employees about the smoking prohibition contained in Section 19994.31, areas where smoking is permitted, and the availability of tobacco smoking control programs.

(d) Enrollment in a tobacco smoking control program by any state employee shall be voluntary.

19994.34. Notwithstanding any other provision of law, an agency specified in Division 3 (commencing with Section 3001) of the Food and Agricultural Code may accommodate the smoking public where it is economically feasible, provided state employees are not required to work in enclosed areas where the probability of exposure to

secondhand smoke exists and the nonsmoking public is provided with a smoke-free environment in all enclosed buildings.

19994.35. (a) No tobacco product advertising shall be allowed in any state-owned and state-occupied building excepting advertising contained in a program, leaflet, newspaper, magazine, or other written material lawfully sold, brought, or distributed within a state building.

(b) "Advertise," for purposes of this section, means the display of any poster, sign, or other written or visual material that is intended to communicate commercial information or images to the public.

(c) "Tobacco product," for purposes of this section, means any product containing tobacco, the prepared leaves of plants of the nicotiana family, including, but not limited to, cigarettes, loose tobacco, cigars, snuff, chewing tobacco, or any other preparation of tobacco.

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 1212

An act to add and repeal Article 6 (commencing with Section 18175) to Chapter 2 of Part 11 of, the Education Code, relating to school libraries, and making an appropriation therefor.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Article 6 (commencing with Section 18175) is added to Chapter 2 of Part 11 of the Education Code, to read:

Article 6. Library Education

18175. This article shall be known and may be cited as the "California Public School Library Protection Act."

18176. (a) The Legislature finds and declares that a need exists to ensure that all schools have libraries with adequate and up-to-date

resource materials and to assist school districts in staffing their library media centers, in order to achieve equity in learning opportunity in all school districts in this state. A 1987 study of California's public school libraries conducted by the State Department of Education and entitled "The Crisis in California School Libraries—A Special Study," concluded that declining support for school libraries over the last decade has resulted in inadequate and outdated book collections and support materials to meet the scholastic needs of pupils. Further, the study revealed that 68 percent of California's public school libraries have no certificated library media center teacher on staff.

(b) Whereas the study, identified in subdivision (a), concluded that the "school library is the neglected stepchild of educational reform," it is the intent of the Legislature to ensure that services and materials in public school library media programs and centers in kindergarten and grades 1 to 12, inclusive, be maintained at a level sufficient to enable pupils to become independent learners during their school years and as adults, and to enhance inservice training to public school teachers under the direction of certificated library media teachers. The Legislature intends that, by encouraging literacy in the elementary grades under this article, the high rate of pupils who drop out of school prior to graduation from high school will be reduced.

18177. (a) In order to qualify for funding under this article on behalf of any school, a school district shall demonstrate to the State Department of Education all of the following:

(1) That a school library improvement plan has been developed by the school library media teacher, classroom teachers, and the school principal, that has been approved by the local governing board. If a school library media teacher is not employed at a school, a school library media teacher employed by the district or county office of education shall be involved in the development of the plan. The plan shall provide for the selection and procurement of library materials and technology-based materials so as to conform the school's library media program to the California Curriculum Standards and Frameworks, as adopted by the State Department of Education, or to a comparable standard that is designed to use library media program materials and resources to improve teaching strategies, enhance staff development, and implement curriculum objectives in each subject area described in Chapter 2 (commencing with Section 51200) of Part 28.

(2) A proposed budget showing current and proposed expenditures for both the funding of library media technology, and the purchase of materials, including books, reference materials, periodicals, laser discs, CD-ROMs, maps, charts, globes, and other media, that are designed to meet the information needs appropriate to the grade level of pupils at the school. For the purposes of this section, the term "library media technology" includes any automated library management program or system designed to enhance the efficiency and delivery of library services to pupils.

(b) Of the total amount available in the fund created pursuant to Section 18178, 50 percent shall be made available to schools where a credentialed library media teacher is or will be employed at least one-half time. The other 50 percent of the money in that fund shall be available for schools that do not have a credentialed library media teacher that is or will be employed at least one-half time, but that have a school library improvement plan that includes provisions for appropriate maintenance of the materials collection and for supervision of pupils using the materials.

18178. (a) The State Department of Education shall issue to applicant school districts, from the California Public School Library Protection Fund created under subdivision (d), grants for the benefit of schools that qualify for funding under Section 18177. The funds deposited in any fiscal year into the California Public School Library Protection Fund, other than those funds applied to administrative costs in accordance with subdivision (d), shall be allocated as follows:

(1) An amount of no more than 30 percent of the moneys available in the fund, on behalf of schools that currently do not have a school library. No more than ten thousand dollars ($10,000) shall be allocated to any one school pursuant to this paragraph. The funding allocated under this paragraph shall be used to purchase, for the school library, core literature or other library materials that are directly related to courses of study offered by the school.

(2) At least 70 percent of the moneys available in the fund, to replace outdated library materials. No more than five thousand dollars ($5,000) shall be allocated to any one school pursuant to this paragraph.

(b) Schoolsites shall not be eligible to receive more than one grant every five years from the fund. This restriction may be waived by the Superintendent of Public Instruction if all eligible applicant districts have been funded and funds remain in the California Public School Library Protection Fund.

(c) In apportioning grant funding under this section, the department shall accord highest priority to those schools for which the greatest funding need is demonstrated in the plan adopted pursuant to Section 18177. The department shall look to the following criteria to demonstrate need:

(1) Age of nonfiction materials in the current library.

(2) Size of the collection. The smaller the collection, the greater the funding need.

(3) Ability of pupils to use the education technology materials.

(d) The California Public School Library Protection Fund is hereby created in the State Treasury. It is the intent of the Legislature, that all money in the fund, including any money deposited in the fund from any source whatsoever, shall be appropriated by the Budget Act each fiscal year for expenditure pursuant to this article. The State Department of Education may apportion funds to school districts from the fund as authorized under

this article.

(e) The funding provided under this section shall be expended as provided for in the school library improvement plan, and shall supplement, and not supplant, other expenditures by a school district for the support of a school library.

(f) The sole source of funding for this article shall be the fund created pursuant to subdivision (d).

18179. This article shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1999, deletes or extends that date.

SEC. 2. An amount equal to 5 percent of the funds deposited in the California Public School Library Protection Fund, but not to exceed fifty thousand dollars ($50,000) is hereby appropriated from the California Public School Library Protection Fund to the State Department of Education for the administrative costs of Article 6 (commencing with Section 18175) of Chapter 2 of Part 6 of the Education Code.

SEC. 3. This bill shall become operative only if Senate Bill 170 of the 1993–94 Regular Session is enacted and becomes effective on or before January 1, 1994.

CHAPTER 1213

An act to add Section 597x to the Penal Code, relating to animals.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 597x is added to the Penal Code, to read:

597x. (a) Notwithstanding Section 18734 of the Food and Agricultural Code or any other provision of law, it is unlawful for any person to sell, attempt to sell, load, cause to be loaded, transport, or attempt to transport any live horse, mule, burro, or pony that is disabled, if the animal is intended to be sold, loaded, or transported for commercial slaughter out of the state.

(b) For the purposes of this section, "disabled animal" includes, but is not limited to, any animal that has broken limbs, is unable to stand and balance itself without assistance, cannot walk, or is severely injured.

(c) A person who violates this section is guilty of a misdemeanor and subject to the same penalties imposed upon a person convicted of a misdemeanor under Section 597a.

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 1214

An act to amend Sections 54.1 and 54.8 of the Civil Code, to amend Section 224 of the Code of Civil Procedure, to amend Sections 4450 and 12926 of the Government Code, and to amend Section 19952 of the Health and Safety Code, relating to disabled persons.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 54.1 of the Civil Code is amended to read:

54.1. (a) Individuals with disabilities shall be entitled to full and equal access, as other members of the general public, to accommodations, advantages, facilities, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes of transportation (whether private, public, franchised, licensed, contracted, or otherwise provided), telephone facilities, adoption agencies, private schools, hotels, lodging places, places of public accommodation, amusement, or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons.

As used in this section, "telephone facilities" means tariff items and other equipment and services which have been approved by the Public Utilities Commission to be used by individuals with disabilities in a manner feasible and compatible with the existing telephone network provided by the telephone companies.

"Full and equal access," for purposes of this section in its application to transportation, means access that meets the standards of Titles II and III of the Americans with Disabilities Act of 1990 (Public Law 101-336) and federal regulations adopted pursuant thereto, except that, if the laws of this state prescribe higher standards, it shall mean access that meets those higher standards.

(b) (1) Individuals with disabilities shall be entitled to full and equal access, as other members of the general public, to all housing accommodations offered for rent, lease, or compensation in this state, subject to the conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons.

(2) "Housing accommodations" means any real property, or portion thereof, which is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home, residence, or sleeping place of one or more human beings, but shall not include any accommodations included within subdivision (a) or any single-family residence the occupants of which rent, lease, or furnish for compensation not more than one room therein.

(3) Nothing in this subdivision shall require any person renting, leasing, or providing for compensation real property to modify his or her property in any way or provide a higher degree of care for an individual with a disability than for an individual who is not disabled.

(4) Except as provided in paragraph (5) of this subdivision, nothing in this part shall require any person renting, leasing, or providing for compensation real property, if that person refuses to accept tenants who have dogs, to accept as a tenant an individual with a disability who has a dog.

(5) It shall be deemed a denial of equal access to housing accommodations within the meaning of this subdivision for any person, firm, or corporation to refuse to lease or rent housing accommodations to an individual who is blind or visually impaired on the basis that the individual uses the services of a guide dog, an individual who is deaf or hearing impaired on the basis that the individual uses the services of a signal dog, or to an individual with a physical disability on the basis that the individual uses the services of a service dog, or to refuse to permit such an individual who is blind or visually impaired to keep a guide dog, an individual who is deaf or hearing impaired to keep a signal dog, or an individual with a physical disability to keep a service dog on the premises.

Except in the normal performance of duty as a mobility or signal aid, nothing contained in this paragraph shall be construed to prevent the owner of a housing accommodation from establishing terms in a lease or rental agreement which reasonably regulate the presence of guide dogs, signal dogs, or service dogs on the premises of a housing accommodation, nor shall this paragraph be construed to relieve a tenant from any liability otherwise imposed by law for real and personal property damages caused by such a dog when proof of same exists.

As used in this subdivision, "guide dog" means any guide dog which was trained by a person licensed under the provisions of Chapter 9.5 (commencing with Section 7200) of Division 3 of the Business and Professions Code or as defined in the regulations implementing Title III of the Americans with Disabilities Act of 1990 (Public Law 101-336).

As used in this subdivision, "signal dog" means any dog trained to alert an individual who is deaf or hearing impaired to intruders or sounds.

As used in this subdivision, "service dog" means any dog individually trained to the requirements of an individual with physical disabilities, including, but not limited to, minimal protection

work, rescue work, pulling a wheelchair, or fetching dropped items.

(6) It shall be deemed a denial of equal access to housing accommodations within the meaning of this subdivision for any person, firm, or corporation to refuse to lease or rent housing accommodations to an individual who is blind or visually impaired, an individual who is deaf or hearing impaired, or other individual with a disability on the basis that the individual with a disability is partially or wholly dependent upon the income of his or her spouse, if the spouse is a party to the lease or rental agreement. Nothing in this subdivision shall, however, prohibit a lessor or landlord from considering the aggregate financial status of an individual with a disability and his or her spouse.

(c) Persons licensed to train guide dogs for individuals who are visually impaired or blind pursuant to Chapter 9.5 (commencing with Section 7200) of Division 3 of the Business and Professions Code or guide dogs as defined in the regulations implementing Title III of the Americans with Disabilities Act of 1990 (Public Law 101-336), and persons authorized to train signal dogs for individuals who are deaf or hearing impaired, and persons authorized to train service dogs for individuals with physical disabilities, may take dogs, for the purpose of training them as guide dogs, signal dogs, or service dogs in any of the places specified in subdivisions (a) and (b). These persons shall carry and display identification if issued as an authorization, upon request.

SEC. 1.5. Section 54.1 of the Civil Code is amended to read:

54.1. (a) Individuals with disabilities shall be entitled to full and equal access, as other members of the general public, to accommodations, advantages, facilities, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes of transportation (whether private, public, franchised, licensed, contracted, or otherwise provided), telephone facilities, adoption agencies, private schools, hotels, lodging places, places of public accommodation, amusement, or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons.

As used in this section, "telephone facilities" means tariff items and other equipment and services which have been approved by the Public Utilities Commission to be used by individuals with disabilities in a manner feasible and compatible with the existing telephone network provided by the telephone companies.

"Full and equal access," for purposes of this section in its application to transportation, means access that meets the standards of Titles II and III of the Americans with Disabilities Act of 1990 (Public Law 101-336) and federal regulations adopted pursuant thereto, except that, if the laws of this state prescribe higher standards, it shall mean access that meets those higher standards.

(b) (1) Individuals with disabilities shall be entitled to full and

equal access, as other members of the general public, to all housing accommodations offered for rent, lease, or compensation in this state, subject to the conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons.

(2) "Housing accommodations" means any real property, or portion thereof, which is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home, residence, or sleeping place of one or more human beings, but shall not include any accommodations included within subdivision (a) or any single-family residence the occupants of which rent, lease, or furnish for compensation not more than one room therein.

(3) Nothing in this subdivision shall require any person renting, leasing, or providing for compensation real property to modify his or her property in any way or provide a higher degree of care for an individual with a disability than for an individual who is not disabled.

(4) Except as provided in paragraph (5) of this subdivision, nothing in this part shall require any person renting, leasing, or providing for compensation real property, if that person refuses to accept tenants who have dogs, to accept as a tenant an individual with a disability who has a dog.

(5) It shall be deemed a denial of equal access to housing accommodations within the meaning of this subdivision for any person, firm, or corporation to refuse to lease or rent housing accommodations to an individual who is blind or visually impaired on the basis that the individual uses the services of a guide dog, an individual who is deaf or hearing impaired on the basis that the individual uses the services of a signal dog, or to an individual with a physical disability on the basis that the individual uses the services of a service dog, or to refuse to permit an individual who is blind or visually impaired to keep a guide dog, an individual who is deaf or hearing impaired to keep a signal dog, or an individual with a physical disability to keep a service dog on the premises.

Except in the normal performance of duty as a mobility or signal aid, nothing contained in this paragraph shall be construed to prevent the owner of a housing accommodation from establishing terms in a lease or rental agreement which reasonably regulate the presence of guide dogs, signal dogs, or service dogs on the premises of a housing accommodation, nor shall this paragraph be construed to relieve a tenant from any liability otherwise imposed by law for real and personal property damages caused by such a dog when proof of same exists.

As used in this subdivision, "guide dog" means any guide dog which was trained by a person licensed under the provisions of Chapter 9.5 (commencing with Section 7200) of Division 3 of the Business and Professions Code or as defined in the regulations implementing Title III of the Americans with Disabilities Act of 1990 (Public Law 101-336), or trained by a school recognized in another state to train guide or seeing-eye dogs.

As used in this subdivision, "signal dog" means any dog trained to

alert an individual who is deaf or hearing impaired to intruders or sounds.

As used in this subdivision, "service dog" means any dog individually trained to the requirements of an individual with physical disabilities, including, but not limited to, minimal protection work, rescue work, pulling a wheelchair, or fetching dropped items.

(6) It shall be deemed a denial of equal access to housing accommodations within the meaning of this subdivision for any person, firm, or corporation to refuse to lease or rent housing accommodations to an individual who is blind or visually impaired, an individual who is deaf or hearing impaired, or other individual with a disability on the basis that the individual with a disability is partially or wholly dependent upon the income of his or her spouse, if the spouse is a party to the lease or rental agreement. Nothing in this subdivision shall, however, prohibit a lessor or landlord from considering the aggregate financial status of an individual with a disability and his or her spouse.

(c) Persons licensed to train guide dogs for individuals who are visually impaired or blind pursuant to Chapter 9.5 (commencing with Section 7200) of Division 3 of the Business and Professions Code or guide dogs as defined in the regulations implementing Title III of the Americans with Disabilities Act of 1990 (Public Law 101-336), and persons authorized to train signal dogs for individuals who are deaf or hearing impaired, and persons authorized to train service dogs for individuals with physical disabilities, may take dogs, for the purpose of training them as guide dogs, signal dogs, or service dogs in any of the places specified in subdivisions (a) and (b). These persons shall carry and display identification if issued as an authorization, upon request.

SEC. 2. Section 54.8 of the Civil Code is amended to read:

54.8. (a) In any civil or criminal proceeding, including, but not limited to, traffic, small claims court, family court proceedings and services, and juvenile court proceedings, in any court-ordered or court-provided alternative dispute resolution, including mediation and arbitration, or in any administrative hearing of a public agency, where a party, witness, attorney, judicial employee, judge, juror, or other participant who is hearing impaired, the individual who is hearing impaired, upon his or her request, shall be provided with a functioning assistive listening system or a computer-aided transcription system. Any individual requiring this equipment shall give advance notice of his or her need to the appropriate court or agency at the time the hearing is set or not later than five days before the hearing.

(b) Assistive listening systems include, but are not limited to, special devices which transmit amplified speech by means of audio-induction loops, radio frequency systems (AM or FM), or infrared transmission. Personal receivers, headphones, and neck loops shall be available upon request by individuals who are hearing impaired.

(c) If a computer-aided transcription system is requested, sufficient display terminals shall be provided to allow the individual who is hearing impaired to read the real time transcript of the proceeding without difficulty.

(d) A sign shall be posted in a prominent place indicating the availability of, and how to request, an assistive listening system and a computer-aided transcription system. Notice of the availability of the systems shall be posted with notice of trials.

(e) Each county shall have at least one portable assistive listening system for use by any court within the county. The system shall be in a location jointly determined by the county board of supervisors and the judges.

(f) The Judicial Council shall develop and approve official forms for notice of the availability of assistive listening systems and computer-aided transcription systems for individuals who are hearing impaired. The Judicial Council shall also develop and maintain a system to record utilization by the courts of these assistive listening systems and computer-aided transcription systems.

(g) If the individual who is hearing impaired is a juror, the jury deliberation room shall be equipped with an assistive listening system or a computer-aided transcription system upon the request of the juror.

(h) A court reporter may be present in the jury deliberating room during a jury deliberation if the services of a court reporter for the purpose of operating a computer-aided transcription system are required for a juror who is hearing impaired.

(i) In any of the proceedings referred to in subdivision (a), or in any administrative hearing of a public agency, in which the individual who is hearing impaired is a party, witness, attorney, judicial employee, judge, juror, or other participant, and has requested use of an assistive listening system or computer-aided transcription system, the proceedings shall not commence until the system is in place and functioning.

(j) As used in this section, "individual who is hearing impaired" means an individual with a hearing loss, who, with sufficient amplification or a computer-aided transcription system, is able to fully participate in the proceeding.

(k) In no case shall this section be construed to prescribe a lesser standard of accessibility or usability than that provided by Title II of the Americans with Disabilities Act of 1990 (Public Law 101-336) and federal regulations adopted pursuant to that act.

SEC. 3. Section 224 of the Code of Civil Procedure is amended to read:

224. (a) If a party does not cause the removal by challenge of an individual juror who is deaf, hearing impaired, blind, visually impaired, or speech impaired and who requires auxiliary services to facilitate communication, the party shall (1) stipulate to the presence of a service provider in the jury room during jury deliberations, and (2) prepare and deliver to the court proposed jury

instructions to the service provider.

(b) As used in this section, "service provider" includes, but is not limited to, a person who is a sign language interpreter, oral interpreter, deaf-blind interpreter, reader, or speech interpreter. If auxiliary services are required during the course of jury deliberations, the court shall instruct the jury and the service provider that the service provider for the juror with a disability is not to participate in the jury's deliberations in any manner except to facilitate communication between the juror with a disability and other jurors.

(c) The court shall appoint a service provider whose services are needed by a juror with a disability to facilitate communication or participation. A sign language interpreter, oral interpreter, or deaf-blind interpreter appointed pursuant to this section shall be a qualified interpreter, as defined in subdivision (f) of Section 754 of the Evidence Code. Service providers appointed by the court under this subdivision shall be compensated in the same manner as provided in subdivision (i) of Section 754 of the Evidence Code.

SEC. 4. Section 4450 of the Government Code is amended to read:

4450. (a) It is the purpose of this chapter to ensure that all buildings, structures, sidewalks, curbs, and related facilities, constructed in this state by the use of state, county, or municipal funds, or the funds of any political subdivision of the state shall be accessible to and usable by persons with disabilities. The State Architect shall develop and submit proposed building standards to the California Building Standards Commission for adoption, pursuant to Section 18949.1 of the Health and Safety Code, in accordance with Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of the Health and Safety Code and shall develop and submit to the California Building Standards Commission other proposed regulations for making buildings, structures, sidewalks, curbs, and related facilities accessible to and usable by persons with disabilities. The regulations and building standards relating to access for persons with disabilities shall be consistent with the standards for buildings and structures which are contained in pertinent provisions of the latest edition of the Uniform Building Code, as adopted by the International Conference of Building Officials, and these regulations and building standards shall contain such additional requirements relating to buildings, structures, sidewalks, curbs, and other related facilities as the California Building Standards Commission determines are necessary to assure access and usability for persons with disabilities. In developing and revising these proposed additional requirements, the State Architect shall consult with the Department of Rehabilitation, the League of California Cities, the County Supervisors Association of California, and at least one private organization representing and comprised of persons with disabilities.

(b) However, in no case shall the regulations and building standards prescribe a lesser standard of accessibility or usability than

provided by the Accessibility Guidelines prepared by the federal Access Board as adopted by the United States Department of Justice to implement the Americans with Disabilities Act of 1990 (Public Law 101-336).

SEC. 5. Section 12926 of the Government Code is amended to read:

12926. As used in this part in connection with unlawful practices, unless a different meaning clearly appears from the context:

(a) "Affirmative relief" or "prospective relief" includes the authority to order reinstatement of an employee, awards of backpay, reimbursement of out-of-pocket expenses, hiring, transfers, reassignments, grants of tenure, promotions, cease and desist orders, posting of notices, training of personnel, testing, expunging of records, reporting of records, and any other similar relief that is intended to correct unlawful practices under this part.

(b) "Age" refers to the chronological age of any individual who has reached his or her 40th birthday.

(c) "Employee" does not include any individual employed by his or her parents, spouse, or child, or any individual employed under a special license in a nonprofit sheltered workshop or rehabilitation facility.

(d) "Employer" includes any person regularly employing five or more persons, or any person acting as an agent of an employer, directly or indirectly; the state or any political or civil subdivision thereof and cities, except as follows:

(1) "Employer" does not include a religious association or corporation not organized for private profit.

(2) "Employer," for purposes of provisions defining unlawful employment practices related to mental disability, means any person regularly employing 15 or more persons, or any person directly or indirectly acting as an agent of such an employer, and also includes the state and municipalities and political subdivisions of the state.

(e) "Employment agency" includes any person undertaking for compensation to procure employees or opportunities to work.

(f) "Essential functions" means the fundamental job duties of the employment position the individual with a disability holds or desires. "Essential functions" does not include the marginal functions of the position.

(1) A job function may be considered essential for any of several reasons, including, but not limited to, any one or more of the following:

(A) The function may be essential because the reason the position exists is to perform that function.

(B) The function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed.

(C) The function may be highly specialized, so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function.

(2) Evidence of whether a particular function is essential includes, but is not limited to, the following:

(A) The employer's judgment as to which functions are essential.

(B) Written job descriptions prepared before advertising or interviewing applicants for the job.

(C) The amount of time spent on the job performing the function.

(D) The consequences of not requiring the incumbent to perform the function.

(E) The terms of a collective bargaining agreement.

(F) The work experiences of past incumbents in the job.

(G) The current work experience of incumbents in similar jobs.

(g) "Labor organization" includes any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection.

(h) "Medical condition" includes any health impairment related to or associated with a diagnosis of cancer, for which a person has been rehabilitated or cured, based on competent medical evidence.

(i) "Mental disability" includes any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. However, "mental disability" does not include conditions excluded from the federal definition of "disability" pursuant to Section 511 of the Americans with Disabilities Act of 1990 (42 U.S.C., Sec. 12211). Additionally, for purposes of this part, the unlawful use of controlled substances or other drugs shall not be deemed, in and of itself, to constitute a mental disability.

(j) "On the bases enumerated in this part" means or refers to discrimination on the basis of one or more of the following: race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, or age.

(k) "Physical disability" includes, but is not limited to, all of the following:

(1) Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:

(A) Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.

(B) Limits an individual's ability to participate in major life activities.

(2) Any other health impairment not described in paragraph (1) that requires special education or related services.

(3) Being regarded as having or having had a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (1) or (2).

(4) Being regarded as having, or having had, a disease, disorder,

condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (1) or (2).

It is the intent of the Legislature that the definition of "physical disability" in this subdivision shall have the same meaning as the term "physical handicap" formerly defined by this subdivision and construed in American National Ins. Co. v. Fair Employment & Housing Com., 32 Cal. 3d 603. However, "physical disability" does not include conditions excluded from the federal definition of "disability" pursuant to Section 511 of the Americans with Disabilities Act of 1990 (42 U.S.C., Sec. 12211). Additionally, for purposes of this part, the unlawful use of controlled substances or other drugs shall not be deemed, in and of itself, to constitute a physical disability.

(*l*) Notwithstanding subdivisions (i) and (k), if the definition of "disability" used in the Americans with Disabilities Act of 1990 (Public Law 101-336) would result in broader protection of the civil rights of individuals with a mental disability or physical disability, as defined in subdivision (i) or (k), or would include any medical condition not included within those definitions, then that broader protection or coverage shall be deemed incorporated by reference into, and shall prevail over conflicting provisions of, the definitions in subdivisions (i) and (k).

(m) "Reasonable accommodation" may include either of the following:

(1) Making existing facilities used by employees readily accessible to, and usable by, individuals with disabilities.

(2) Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

(n) "Religious creed," "religion," "religious observance," "religious belief," and "creed" include all aspects of religious belief, observance, and practice.

(o) "Sex" includes, but is not limited to, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth.

(p) "Undue hardship" means an action requiring significant difficulty or expense, when considered in light of the following factors: (1) the nature and cost of the accommodation needed, (2) the overall financial resources of the facilities involved in the provision of the reasonable accommodations, the number of persons employed at the facility, and the effect on expenses and resources or the impact otherwise of these accommodations upon the operation of the facility, (3) the overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of employees, and the number, type, and location of its facilities, (4) the type of operations, including the composition,

structure, and functions of the workforce of the entity, (5) the geographic separateness, administrative, or fiscal relationship of the facility or facilities.

SEC. 6. Section 19952 of the Health and Safety Code is amended to read:

19952. (a) Any person, or public or private firm, organization, or corporation, who owns or manages places of public amusement and resort including theaters, concert halls, and stadiums shall provide seating or accommodations for physically disabled persons in a variety of locations within the facility, to the extent that this variety can be provided while meeting fire and panic safety requirements of the State Fire Marshal, so as to provide these persons a choice of admission prices otherwise available to members of the general public.

(b) Readily removable seats may be installed in wheelchair spaces when the spaces are not required to accommodate wheelchair users.

(c) The requirements of this section shall apply with respect to publicly and privately owned facilities or structures for the purposes specified in subdivision (a) for which a building permit or a building plan for new construction has been issued on or after January 1, 1985.

(d) In no case shall this section be construed to prescribe a lesser standard of accessibility or usability than provided by the Accessibility Guidelines prepared by the federal Access Board and adopted by the United States Department of Justice to implement the Americans with Disabilities Act of 1990 (Public Law 101-336).

SEC. 7. Section 1.5 of this bill incorporates amendments to Section 54.1 of the Civil Code proposed by both this bill and AB 1419. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1994, (2) each bill amends Section 54.1 of the Civil Code, and (3) this bill is enacted after AB 1419, in which case Section 1 of this bill shall not become operative.

SEC. 8. 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 1215

An act to amend Sections 1568.01, 1568.02, 1568.03, 1568.06, 1568.07, 1771, 1777, and 1777.2 of, to add Section 1568.041 to, and to repeal Chapter 3.35 (commencing with Section 1596.60) of Division 2 of, the Health and Safety Code, relating to residential care.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 1568.01 of the Health and Safety Code is amended to read:

1568.01. For purposes of this chapter, the following definitions shall apply:

(a) "Activities of daily living" means housework, meals, laundry, taking medication, money management, appropriate transportation, correspondence, telephoning, dressing, feeding, toileting, bathing, grooming, mobility, and related tasks.

(b) "Care and supervision" means ongoing assistance with activities of daily living without which a resident's physical health, mental health, safety, or welfare would be endangered.

(c) "Chronic, life-threatening illness" means HIV disease or AIDS.

(d) "Department" means the State Department of Social Services.

(e) "Director" means the Director of Social Services.

(f) "Family dwelling" includes, but is not limited to, single-family dwellings, units in multifamily dwellings, including units in duplexes and units in apartment dwellings, mobilehomes, including mobilehomes located in mobilehome parks, units in cooperatives, units in condominiums, units in townhouses, and units in planned unit developments.

(g) "Family unit" means at least one parent or guardian and one or more of that parent or guardian's children. For purposes of this chapter, each family unit shall include at least one adult with HIV disease or AIDS, or at least one child with HIV disease or AIDS, or both.

(h) "Fund" means the Residential Care Facilities for Persons with Chronic Life-Threatening Illness Fund created by subdivision (c) of Section 1568.05.

(i) "Placement agency" means any state agency, county agency, or private agency which receives public funds, in part, to identify housing options for persons with chronic, life-threatening illness and refers these persons to housing.

(j) "Residential care facility" means a residential care facility for persons with chronic, life-threatening illness who are 18 years of age or older or are emancipated minors, and for family units.

(k) "Six or fewer persons" does not include the licensee or members of the licensee's family or persons employed as facility staff.

SEC. 2. Section 1568.02 of the Health and Safety Code is amended to read:

1568.02. (a) The department shall license residential care facilities for persons with chronic, life-threatening illness under a separate category.

(b) The licensee of every facility required to be licensed pursuant to this chapter shall provide the following basic services for each resident:

(1) Room and board. No more than two residents shall share a bedroom, except that the director, in his or her discretion, may waive this limitation.

(2) Access to adequate common areas, including recreation areas and shared kitchen space with adequate refrigerator space for the storage of medications.

(3) Consultation with a nutritionist, including consultation on cultural dietary needs.

(4) Personal care services, as needed, including, but not limited to, activities of daily living. A facility may have a written agreement with another agency to provide personal care services, except that the facility shall be responsible for meeting the personal care needs of each resident.

(5) Access to case management for social services. A facility may have a written agreement with another agency to provide case management.

(6) Development, implementation, and monitoring of an individual services plan. All health services components of the plan shall be developed and monitored in coordination with the home health agency and shall reflect the elements of the resident's plan of treatment developed by the home health agency.

(7) Intake and discharge procedures, including referral to outplacement resources.

(8) Access to psychosocial support services.

(9) Access to community-based and county services system.

(10) Access to a social and emotional support network of the resident's own choosing, within the context of reasonable visitation rules established by the facility.

(11) Access to intermittent home health care services in accordance with paragraph (1) of subdivision (c).

(12) Access to substance abuse services in accordance with paragraph (3) of subdivision (c).

(13) Adequate securable storage space for personal items.

(c) The licensee of every facility required to be licensed pursuant to this chapter shall demonstrate, at the time of application, all of the following:

(1) Written agreement with a licensed home health agency.

(2) Written agreement with a psychosocial services agency, unless the services are provided by the facility's professional staff.

(3) Written agreement with a substance abuse agency, unless the services are provided by the facility's professional staff.

(4) Ability to provide linguistic services for residents who do not speak English.

(5) Ability to provide culturally appropriate services.

(6) Ability to reasonably accommodate residents with physical disabilities, including, but not limited to, residents with motor impairments, physical access to areas of the facility utilized by residents, and access to interpreters for hearing-impaired residents.

(7) Written nondiscrimination policy which shall be posted in a conspicuous place in the facility.

(8) Written policy on drug and alcohol use, including, but not limited to, a prohibition on the use of illegal substances.

(d) Any facility licensed pursuant to this chapter which intends to serve a specific population, such as women, family units, minority and ethnic populations, or homosexual men or women, shall demonstrate, at the time of application, the ability and resources to provide services that are appropriate to the targeted population.

(e) No facility licensed pursuant to this chapter shall house more than 25 residents, except that the director may authorize a facility to house up to 50 residents.

(f) If the administrator is responsible for more than two facilities, the facility manager shall meet the qualifications of both the administrator and the facility manager, as described in Sections 87864 and 87864.1 of Title 22 of the California Code of Regulations.

(g) Each licensee shall employ additional personnel as necessary to meet the needs of the residents and comply with the requirements of this chapter and the regulations adopted by the department pursuant to this chapter. On-call personnel shall be able to be on the facility premises within 30 minutes of the receipt of a telephone call.

SEC. 3. Section 1568.03 of the Health and Safety Code is amended to read:

1568.03. (a) No person, firm, partnership, association, or corporation within the state and no state or local public agency shall operate, establish, manage, conduct, or maintain a residential care facility in this state without first obtaining and maintaining a valid license therefor, as provided in this chapter.

(b) A facility may accept or retain residents requiring varying levels of care. However, a facility shall not accept or retain residents who require a higher level of care than the facility is authorized to provide. Persons who require 24-hour skilled nursing intervention shall not be appropriate for a residential care facility.

(c) This chapter shall not apply to the following:

(1) Any health facility, as defined in Section 1250.

(2) Any clinic, as defined in Section 1200.

(3) Any arrangement for the receiving and care of persons with chronic, life-threatening illness by a relative, guardian or conservator, significant other, or close friend; or any arrangement for the receiving and care of persons with chronic, life-threatening

illness from only one family as respite for the relative, guardian or conservator, significant other, or close friend, if the arrangement is not for financial profit and occurs only occasionally and irregularly, as defined by regulations of the department.

(4) Any house, institution, hotel, foster home, shared housing project, or other similar facility that is limited to providing housing, meals, transportation, housekeeping, or recreational and social activities, as long as all residents thereof independently obtain care and supervision and medical services without the assistance of any person or entity with an organizational or financial connection with that facility, and if no resident thereof has an unmet need for care and supervision or protective supervision. In determining the applicability of this paragraph, the department shall determine the residents' need for care and supervision, if any, and shall identify the persons or entities providing or assisting in the provision of care and supervision.

(d) A holder of a residential care facility license may hold or obtain an additional license or a child day care facility license, as long as the services required by each license are provided at separate locations or distinctly separate sections of the building.

(e) The director may bring an action to enjoin the violation or threatened violation of this section in the superior court in and for the county in which the violation occurred or is about to occur. Any proceeding under this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the director shall not be required to allege facts necessary to show or tending to show lack of adequate remedy at law or irreparable damage or loss. The court shall, if it finds the allegations to be true, issue its order enjoining continuance of the violation.

SEC. 4. Section 1568.041 is added to the Health and Safety Code, immediately following Section 1568.04, to read:

1568.041. (a) The department shall designate at least one person in each region to be responsible for all activities pertaining to license application as well as prescribed monitoring of licensees. In those regions which have a concentration of licensees, the department shall make every effort to identify at least one person in each district office whose sole responsibility will be for facilities licensed pursuant to this chapter.

(b) The department shall ensure that those personnel identified in subdivision (a) receive periodic training regarding the most recent developments in the HIV epidemic and the care and supervision of people with HIV disease.

SEC. 5. Section 1568.06 of the Health and Safety Code is amended to read:

1568.06. (a) Upon initial application for licensure, residential care facilities shall be provided a printed copy of all applicable regulations for the operation of these facilities by the department, without charge. The department shall provide all licensees with

copies of proposed changes in regulations applicable to residential care facilities prior to public hearings on those proposed changes, and copies of all adopted changes in regulations applicable to residential care facilities immediately upon their adoption.

(b) As a requirement for licensure, an applicant shall attend an orientation given by the department which outlines the applicable rules and regulations and the scope and responsibility for operation of a residential care facility. The orientation shall include information on relevant community services.

SEC. 6. Section 1568.07 of the Health and Safety Code is amended to read:

1568.07. (a) (1) Within 90 days of initial licensure, the department shall inspect the facility to evaluate compliance with rules and regulations and to assess the facility's continuing ability to meet regulatory requirements.

(2) The department may take appropriate remedial action as provided for in this chapter.

(b) (1) Every licensed residential 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 annually and as often as necessary to ensure the quality of care being provided.

(2) During each licensing inspection the department shall determine if the facility meets regulatory standards, including, but not limited to, providing residents with the appropriate level of care based on the facility's license, providing adequate staffing and services, updated resident records and assessments, and compliance with basic health and safety standards.

(3) If the department determines that a resident requires a higher level of care than the facility is authorized to provide, the department may initiate a professional level of care assessment by an assessor approved by the department. An assessment shall be conducted in consultation with the resident, the resident's physician and surgeon, and the resident's case manager, and shall reflect the desires of the resident, the resident's physician and surgeon, and the resident's case manager. The assessment also shall recognize that certain illnesses are episodic in nature and that the resident's need for a higher level of care may be temporary.

(4) The department shall notify the residential care facility in writing of all deficiencies in its compliance with 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.

(5) 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.

(c) Any duly authorized officer, employee, or agent of the department may, upon presentation of proper identification, enter

and inspect any place providing personal care, supervision, and services, at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, this chapter.

(d) No licensee shall discriminate or retaliate in any manner against any person receiving the services of the facility of the licensee, or against any employee of the facility, on the basis, or for the reason, that a person or employee or any other person has initiated or participated in an inspection pursuant to Section 1568.071.

(e) Any person who, without lawful authorization from a duly authorized officer, employee, or agent of the department, informs an owner, operator, employee, agent, or resident of a residential care facility, of an impending or proposed inspection or evaluation of that facility by personnel of the department, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars ($1,000), by imprisonment in the county jail for a period not to exceed 180 days, or by both a fine and imprisonment.

SEC. 7. Chapter 3.35 (commencing with Section 1596.60) of Division 2 of the Health and Safety Code is repealed.

SEC. 8. Section 1771 of the Health and Safety Code is amended to read:

1771. Unless the context otherwise requires, the definitions in this section govern the construction of this chapter.

(a) "Annual report" means audited financial statements with an accompanying certified public accountant's opinion thereof, reserve calculations, resident listing, evidence of surety bond, and certification that the contract in use for new residents has been approved by the department, all submitted to the department by each provider annually.

(b) "Applicant" means any entity that submits an application to the department for a permit to sell deposit subscriptions and certificate of authority.

(c) "Basic services" means the following services, which are required to be provided to the residents, as necessary or appropriate, in order to obtain and maintain a license as a residential care facility for the elderly:

(1) Regular observation of the resident's physical and mental condition.

(2) Safe and healthful living accommodations, including housekeeping services and utilities.

(3) Maintenance of house rules for the protection of residents.

(4) A planned activities program, which includes social and recreational activities appropriate to the interests and capabilities of the residents.

(5) Supervision of residents' schedules and activities.

(6) Three balanced, nutritious meals and snacks made available daily, including special diets prescribed by a physician and surgeon as a medical necessity.

(7) Monitoring food intake or special diets.

(8) Personal assistance and care in activities of daily living, such as dressing, grooming, bathing, and other personal hygiene.

(9) Assistance with taking medication.

(10) Central storing and distribution of medications.

(11) Arrangements to meet health needs, including arranging transportation.

(d) "Cancellation" means to destroy the force and effectiveness of an agreement or contract, by making or declaring it void or invalid.

(e) "Cancellation period" means the 90-day period, beginning when the transferor receives a signed copy of the continuing care contract, during which time the resident or transferor may rescind the contract.

(f) "Care" means nursing, medical, or other health related services, protection or supervision, or assistance with the personal activities of daily living, or any combination of those services.

(g) "Certificate" or "certificate of authority" means the written authorization from the department for a specified provider to enter into one or more continuing care contracts at a single specified facility.

(h) "Committee" means the Committee on Continuing Care Contracts of the State Department of Social Services.

(i) "Consideration" means some right, interest, profit, or benefit accruing to one party, or some forbearance, detriment, loss, or responsibility, given, suffered, or undertaken by the other.

(j) "Continuing care contract" means a written contract, which includes a promise by a provider to provide one or more elements of care to an elderly resident for the duration of his or her life or for a term in excess of one year, in exchange for the payment of an entrance fee, or payment of periodic charges, or both types of payments. A continuing care contract may consist of one or a series of agreements and may have other writings incorporated by reference. A continuing care contract includes a life care contract, as defined in subdivision (w).

(k) "Contract" means a continuing care contract.

(*l*) "Department" means the State Department of Social Services.

(m) "Deposit subscription" means the installment payment made by a subscriber to an applicant during development or construction of a facility.

(n) "Director" means the Director of the State Department of Social Services.

(o) "Elderly" means an individual who is 60 years of age or older.

(p) "Entity" means an organization or being that possesses separate existence for tax purposes. Entity includes person, sole proprietorship, estate, trust, association, joint venture, partnership, and corporation.

(q) "Entrance fee" means an initial or deferred transfer of consideration made or promised to be made by a person entering

into a continuing care contract, for the purpose of assuring care or related services pursuant to that contract or as full or partial payment for the promise to provide a facility. The entrance fee may include previously paid deposit subscriptions, which are credited at the time of the parties signing the continuing care contracts to the total entrance fee due. The term "accommodation fee" may be synonymously used to mean an entrance fee.

(r) "Equity" means the residual value of a business or property beyond any mortgage or deed of trust thereon and liability therein.

(s) "Equity project" means a continuing care development project wherein the residents are given an equity interest in the facility property or in a membership in a residence association.

(t) "Escrow agent" means any of the following entities approved by the director as capable of ensuring the safety of the funds and properties entrusted to it and capable and willing to perform the terms of the escrow pursuant to the escrow agreement and the provisions of this chapter:

(1) A bank which is a member of the Federal Deposit Insurance Corporation.

(2) A savings and loan association which is a member of the Federal Deposit Insurance Corporation.

(u) "Facility" means any place or accommodation in which a provider undertakes to provide a resident with care or related services pursuant to a continuing care contract, whether or not the place or accommodation is constructed, owned, leased, rented, or otherwise contracted for by the provider. For the purposes of meeting the enrollment criteria of this chapter, a distinct phase of development may be considered to be the facility when a project is being developed in successive multiple phases over a period of time.

(v) "Installment payment" means one of several successive payments made at previously agreed upon intervals toward the settlement of a debt.

(w) "Life care contract" means a continuing care contract which includes a promise by a provider to provide all levels of care, including acute care and physicians and surgeons' services, to a resident for the duration of his or her life. Care shall be provided in a facility having a comprehensive continuum of care, including a skilled nursing facility, under the ownership and supervision of the provider on, or adjacent to, the premises. In a life care contract, no change is made in the monthly fee based on level of service. A life care contract shall also include provisions to subsidize residents who become financially unable to pay their monthly care fees.

(x) "Life lease" means a landlord-tenant relationship wherein the tenant obtains only the right to possess a defined living unit for life. In a life lease there is no obligation, or intent, to provide care and services to the tenant at any time, present or future.

(y) "Limit" and "limitation" means a restriction on any activity related to a provisional or final certificate of authority, which prohibits the provider from entering into any new contract.

(z) "Living unit" means a specifically identified apartment, room, or other area within a facility.

(aa) "Market test unit" means a living unit of a facility which is not used exclusively for personal care or nursing services.

(bb) "Membership" means a body, class, or group of individuals admitted to the responsibilities and privileges of the collective whole and typically requiring payment of dues, adherence to a program, or compliance with some other requirements of the group.

(cc) "Monthly care fee" means the monthly charge to a resident for accommodations and services rendered pursuant to a continuing care contract, exclusive of entrance fees or other prepayments, including care, board, or lodging, and any other periodic charges to the resident, determined on a monthly or other recurring basis, pursuant to the provisions of a contract.

(dd) "Monthly fee contract" means a continuing care contract that provides by its terms for the monthly payment of a fee for accommodations and services rendered.

(ee) "Nonambulatory person" means a person who is unable to leave a building unassisted under emergency conditions, as required by Section 13131.

(ff) "Per capita cost" means a facility's operating expenses divided by the average number of residents. Depreciation is excluded when computing cash per capita cost for calculating reserve requirements.

(gg) "Permit to sell deposit subscriptions" means a written authorization by the department for an applicant to enter into one or more deposit subscription agreements at a single specified facility.

(hh) "Personal care" means assistance with personal activities of daily living, including dressing, feeding, toileting, bathing, grooming, mobility, and associated tasks, to help provide for and maintain physical and psychosocial comfort.

(ii) "Personal care unit" means a living unit within a physical area of a facility specifically designed to provide ongoing personal care.

(jj) "Prepaid contract" means a continuing care contract in which the monthly care fee, if any, may not be adjusted to cover the actual cost of care and services.

(kk) "Processing fee" means an advance payment by the transferor to cover administrative costs of processing the application of a subscriber or prospective resident.

(*ll*) "Promise to provide care" means any representation made by one or more than one entity that care will be provided or will be available, whether the representation is part of a continuing care contract, other agreement, or series of agreements, or contained in any advertisement, brochure, or other material, either written or oral.

(mm) "Proposes" means a representation that an applicant or provider plans to make a future promise to provide care, which may be subject to the happening of certain events, such as facility construction or obtaining a certificate of authority.

(nn) "Provider" means an entity which provides, promises to provide, or proposes to promise to provide, care for life or for more than one year, and has obtained a provisional or final certificate of authority. Homeowner's associations, cooperatives, or condominium associations cannot be solely responsible for fulfilling the obligations of any continuing care contract.

(oo) "Refundable contract" means a proposed or current continuing care contract form that includes promises, expressed or implied, to pay refunds of entrance fees or to repurchase the transferor's unit, membership, stock, or other interest in the project or facility, after the end of the trial residence period, in the event of voluntary termination by the transferor or resident, when the specified refund right is not fully amortized within the first six years of residency, or in the event a provider terminates a resident.

(pp) "Refund reserve" means the amount calculated and deposited in a special trust fund to ensure the availability of funds for specified refunds of entrance fees.

(qq) "Resident" means a person who enters into a continuing care contract with a provider, or who is designated in a continuing care contract to be a person being provided or to be provided services, including care, board, or lodging.

(rr) "Subscriber" means a person who has applied to be a resident in a facility under development or construction, and who has entered into a deposit subscription agreement.

(ss) "Termination" means the ending of a contract without the terms of the contract being broken by either side.

(tt) "Transfer" means conveyance of a right, title, or interest.

(uu) "Transfer fee" means a levy against the proceeds from the sale of a transferor's equity interest.

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

(ww) "Transferor" means a person who transfers or promises to transfer a sum of money or property for the purpose of assuring care or related services pursuant to a continuing care contract, whether for the benefit of the transferor or another.

SEC. 9. Section 1777 of the Health and Safety Code is amended to read:

1777. (a) The Committee on Continuing Care Contracts of the State Department of Social Services shall act in an advisory capacity to the department on matters relating to continuing care contracts.

(b) The members of the committee shall include:

(1) Three representatives of nonprofit providers of continuing care contracts pursuant to this chapter, each of whom shall have offered continuing care services for at least five years prior to

appointment.

(2) Three senior citizens who are not eligible for appointment pursuant to paragraphs (1) and (4) who shall represent consumers of continuing care services, at least two of whom shall be residents of continuing care retirement communities.

(3) A certified public accountant with experience in the community care industry, who is not a provider of continuing care services.

(4) One representative of a for-profit provider of continuing care contracts pursuant to this chapter.

(5) An actuary.

(c) Committee members shall be appointed as follows:

(1) Five members shall be appointed by the Governor.

(2) Two members shall be appointed by the Senate Committee on Rules, one of whom shall be appointed pursuant to paragraph (2) of subdivision (b).

(3) Two members shall be appointed by the Speaker of the Assembly, one of whom shall be appointed pursuant to paragraph (2) of subdivision (b).

(4) All members shall be appointed based on their interest and expertise in the subject area. The Governor shall designate the chairperson for the committee with the advice and consent of the Senate. All members shall serve at the pleasure of the appointing power. It shall be the duty of the appointing power to fill all vacancies on the committee within 60 days.

(d) The members of the committee shall serve without compensation, except that each member shall be paid a per diem of twenty-five dollars ($25) for each day's attendance at a meeting of the committee not to exceed six days in any month. The members of the committee shall also receive their actual and necessary traveling expenses incurred in the course of their duties.

SEC. 10. Section 1777.2 of the Health and Safety Code is amended to read:

1777.2. (a) The Committee on Continuing Care Contracts shall:

(1) Review the financial and managerial condition of each facility operating under a certificate of authority.

(2) Review the financial condition of any facility that the committee determines is indicating signs of financial difficulty and may be in need of close supervision.

(3) Monitor the condition of facilities at times and places as the department or the chair of the committee may direct.

(4) Make available consumer information on the selection and necessary contract protections in the purchase of life care contracts.

(5) Review new applications regarding financial, actuarial, and marketing feasibility as requested by the department.

(b) The committee shall make recommendations to the department regarding needed changes in its rules and regulations and upon request provide advice regarding the feasibility of new facilities and the correction of problems relating to the management

or operation of any facility. The committee shall also perform any other advisory functions necessary to improve the management and operation of continuing care facilities.

(c) The committee may report on its recommendations directly to the director.

(d) The committee may hold meetings, as deemed necessary to the performance of its duties.

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 1216

An act to add Chapter 12.97 (commencing with Section 7105) to Division 7 of Title 1 of the Government Code, and to amend Sections 17276.2 and 24416.2 of, and to add and repeal Sections 17053.45, 17053.46, 17268, 23645, 23646, and 24356.8 of, the Revenue and Taxation Code, relating to local agencies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Chapter 12.97 (commencing with Section 7105) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 12.97. LOCAL AGENCY MILITARY BASE RECOVERY AREA ACT

7105. This chapter shall be known and may be cited as the Local Agency Military Base Recovery Area Act.

7106. The Legislature finds and declares that the health, safety, and welfare of the people of California depend upon the development, stability, and expansion of private business, industry, and commerce, and that there are certain areas within the state that have been and will be severely economically impacted because of the closure of military bases by the Department of Defense.

The Legislature further finds and declares that while it is necessary for the Department of Defense to close military bases in California

because of the cuts in Department of Defense funding, military bases have historically been crucial to the State of California and its local economies and that their closure creates an economic emergency for many communities.

The Legislature further finds and declares that more than 147,700 California military and civilian personnel have lost their jobs as a result of the military base closures and another 180,000 are at stake in the next round of base closures, and that because of military base closures statewide more than thirteen billion dollars ($13,000,000,000) of revenues have been lost by the state and localities since 1988.

The Legislature further finds and declares that many communities want and need to attract new business and private investment to compensate for the loss of revenue that occurs when a military base closes or downsizes, but that many communities have insufficient means to do so.

The Legislature further finds and declares that many military bases have significant soil contamination and hazardous waste cleanup problems that must be addressed in any reuse plan. In order to encourage the safe and beneficial use of this land, it is important that these problems be addressed in a safe and cost-effective manner. Therefore, it is intended that this law shall encourage the development of adequate treatment capacity for hazardous waste generated at military bases. In addition, special consideration shall be given to reuse plans incorporating the development of commercial offsite facilities, as part of the reuse plan to address California's treatment capacity shortfall.

Therefore, it is the purpose of this act to stimulate business and industrial growth in those areas that are experiencing military base closures by relaxing regulatory controls and thereby encouraging private investment, cooperation, and innovation between local government and private business and industry.

The Legislature further finds and declares that nothing in this chapter shall be construed to infringe upon regulations relating to civil rights, equal employment rights, equal opportunity rights, or fair housing rights of any person.

The Legislature further finds and declares that no local agency military base recovery area shall be designated in which any boundary thereof is drawn in a manner as to include any area outside former base property or outside base property of a base that is scheduled to be closed.

7107. For purposes of this chapter:

(a) "Agency" means the Trade and Commerce Agency.

(b) "Base" means a federal military installation or subinstallation as defined by regulations of the Departments of the Army, Navy, and Air Force, and other defense activities.

(c) "Critically needed hazardous waste facilities" means a facility that will provide necessary offsite treatment capacity for which there is a substantial shortfall or lack of capacity. This shortfall shall be as

identified in any of the following documents:

(1) The State Hazardous Waste Management Plan.

(2) The State's Capacity Assurance Plan required by federal law.

(3) Other reports of the Department of Toxic Substances Control.

(d) "Downsizing" means a significant reduction in federal funding, personnel, and equipment on a base.

(e) "Economic development plan" includes, but is not limited to, a marketing plan, a job development plan, and an analysis of infrastructure.

(f) "Eligible area" means a geographic area meeting the criteria described in Section 7111.

(g) "Governing body" means a city, county, city and county, joint powers agency, council, or board, as appropriate.

(h) "Local agency military base recovery area" means any military base or former military base or portion thereof which is designated in accordance with the provisions of Section 7114.

(i) "Region One" includes the following counties: Del Norte, Siskiyou, Modoc, Humboldt, Trinity, Shasta, Lassen, Mendocino, Tehama, Glenn, Butte, Plumas, Marin, Napa, Sonoma, Lake, Colusa, Sutter, Yuba, Nevada, Sierra, Placer, Yolo, Solano, Sacramento, El Dorado, and Amador.

(j) "Region Two" includes the following counties: Contra Costa, San Francisco, Santa Cruz, Santa Clara, Alameda, and San Mateo.

(k) "Region Three" includes the following counties: Monterey, San Benito, San Joaquin, Merced, Fresno, Stanislaus, Kings, Madera, Mariposa, Tuolumne, Calaveras, Alpine, Mono, Inyo, and Tulare.

(*l*) "Region Four" includes the following counties: San Diego, San Bernardino, Riverside, and Imperial.

(m) "Region Five" includes the following counties: Los Angeles, Orange, Ventura, Santa Barbara, San Luis Obispo, and Kern.

(n) "Reuse plan" includes, but is not limited to, an evaluation of community goals for the future as they relate to potential use of the former military facilities and land areas, market studies or surveys to evaluate the regional economic setting, trends, and pressures affecting base reuse, surveys or inventories of on-base facilities to determine their condition, quality and reuse potential and liability, development of reuse alternatives responding to market conditions, community goals, and reuse of potential of existing assets, review of alternative strategies with the community at large and consensus building of a preferred development strategy.

7110. (a) The governing body may, either by ordinance or resolution, propose an eligible area within its respective jurisdiction as the geographic area for a local agency military base recovery area. A county may propose an area within the unincorporated area as the geographic area for a local agency military base recovery area, but shall not propose an area within an incorporated area. A city may propose an area within the incorporated area as the geographic area for a local agency military base recovery area, but shall not propose an area within an unincorporated area. A city and county may

propose an area within the city and county for designation as a local agency military base recovery area. This proposed geographic area shall be based upon findings by the governing body that the area meets the criteria in Section 7111 and that the designation as a local agency military base recovery area is necessary in order to assist in attracting private sector investment in the area. The governing body shall establish definitive boundaries, not to exceed former base property, for the area to be included in the application for designation and, if designated by the agency, the designation shall be binding for a period of eight years.

(b) Following the application for designation of a local agency military base recovery area, the governing body shall apply to the agency for designation. The agency shall adopt regulations and guidelines concerning the necessary contents of each application for designation.

(c) Any governing body with an eligible area within its jurisdiction may complete a preliminary application.

(d) In designating a local agency military base recovery area, the agency shall select from the applications submitted those proposed local agency military base recovery areas which, based on a comparison of those applications, propose the most effective, innovative, and comprehensive regulatory, tax, program, and other incentives to attract private sector investment in the proposed local agency military base recovery area. For purposes of this paragraph:

(1) "Regulatory incentives" include, but are not limited to, the elimination or reduction of fees for applications, permits, and local government facilities and services; and the establishment of a streamlined permit process.

(2) "Tax incentives" include, but are not limited to, the elimination or reduction of business license taxes and utility user taxes.

(3) "Program" and "other incentives" may include, but are not limited to the provision or expansion of infrastructure; the targeting of federal block grant moneys, including small cities, education, and health and welfare block grants; the targeting of economic development grants and loan moneys, including grant and loan moneys provided by the federal Urban Development Action Grant program and the federal Economic Development Administration; the targeting of state and federal job disadvantaged and vocational education grant moneys, including moneys provided by the federal Job Partnership Training Act of 1982; the targeting of federal or state transportation grant moneys; and the targeting of federal or state low-income housing and rental assistance moneys.

(e) The agency shall also consider the following:

(1) The unemployment rate for the area under the jurisdiction of the local governing body.

(2) The number of civilian and military jobs lost as a result of the base closure when compared to the number of jobs available in the area.

(3) Whether the local agency has a comprehensive economic development plan that is consistent with the reuse plan.

(4) Whether the local agency has a prepared plan for appropriate hazardous waste management facilities as an integral part of the base and shall give extra consideration for any plan which includes provisions for critically needed hazardous waste facilities.

(5) The governing body has resolved, as part of the reuse plan approval, to prepare a program environmental impact report that is in compliance with the California Environmental Quality Control Act and associated guidelines.

(f) In evaluating applications for designation, the agency shall ensure that applications are not disqualified solely because of technical deficiencies and shall provide applicants with an opportunity to correct the deficiencies. Applications shall be disqualified if the deficiencies are not corrected within two weeks. The agency shall provide technical assistance to applicants that request it.

7111. (a) An eligible area is a military base or former military base which, based upon the determination of the agency, fulfills the following:

(1) The base is scheduled for closure or downsizing by a base closure act.

(2) The governing body has approved a reuse plan for the base.

(b) A base is ineligible if any portion of the base is included in an enterprise zone established pursuant to Chapter 12.8 (commencing with Section 7070) or an area established pursuant to Chapter 12.9 (commencing with Section 7080).

7112. All property which is owned by or leased to the state or governing body within the boundaries of the closed military base or the military base that is proposed to be closed which is not in current use by that government and which is not necessary for a public purpose of the state or governing body owning the property may be leased or subleased to a qualified business at a price below fair market value, provided that it serves a public purpose to lease at below fair market value. The lease may be renewed upon expiration if the governing body has continuously complied with these requirements.

7113. (a) Upon filing a preliminary application, the applicant, as lead agency, shall submit an initial study and a notice of preparation to the department, the state clearinghouse, all responsible agencies, and any public agency that has jurisdiction by law with respect to the project.

(b) A governing body selected by the agency as a final applicant shall prepare, or cause to be prepared, an environmental impact report pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code for any and all projects planned within the local agency military base recovery area. Whenever a project requires compliance with both the California Environmental Quality Act and the National Environmental Policy Act, the lead agency

shall, to the greatest extent feasible, prepare a joint environmental impact report and environmental impact statement. The draft environmental impact report shall be submitted to the agency with the final application.

(c) Prior to final designation by the agency, the applicant shall complete and certify the final environmental impact report and act on the project.

7113.5. When selecting successful applicants for a local agency military base recovery area, the agency shall limit the number of local agency military base recovery areas to five, which shall be awarded by the following criteria, in addition to the criteria set forth in Section 7111.

(a) The agency shall designate no more than one local agency military base recovery area in a region.

(b) If the agency finds that none of the applications in a competition are satisfactory in meeting the selection criteria, the agency shall inform all applicants on the deficiencies in their application and shall reopen competition for a period not to exceed six months. Local governing bodies who originally applied, may reapply in the new competition.

(c) If, after following the procedures specified in (c), the agency determines that there are no applications that are satisfactory, the agency may not designate a local agency military base recovery area.

(d) Eligible bases shall compete for approval of a local agency military base recovery area against other eligible bases in the same region.

7114. (a) The agency shall design, develop, and make available the applications and the criteria for selection of a local agency military base recovery area, and shall adopt all regulations necessary to carry out this chapter.

(b) The applications, selection criteria, and all necessary regulations for designation shall be adopted by the agency and made available not later than 120 days following the effective date of this chapter.

(c) The agency shall commence the designation of areas on the effective date of the regulations described in subdivision (a) and shall complete those designations as expeditiously as practicable, but not later than one year from the effective date of those regulations except pursuant to subdivision (b) of Section 7113.5.

(d) The agency shall adopt regulations concerning the designation procedures and application process as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. For the purpose of the Administrative Procedure Act, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare, notwithstanding subdivision (f) of Section 11346.1. Notwithstanding subdivision (e) of Section 11346.1, the regulations shall not remain in effect more than 180 days unless the agency

complies with all provisions of Chapter 3.5 as required by subdivision (e) of Section 11346.1.

7114.5. (a) The agency shall provide, as a high priority, to a designated local agency military base recovery area:

(1) Technical assistance for state and federal grant applications as requested by the governing body.

(2) Technical assistance for small business loans through the State of California and the federal government as requested by the governing body.

(b) The California Environmental Protection Agency shall provide, as a high priority, to a designated local agency military base recovery area technical permit assistance for those permits that fall under the jurisdiction of the agency as requested by the governing body.

(c) The Office of Permit Assistance shall provide, as a high priority, to a designated local agency military base recovery area technical assistance on permits as requested by the governing body.

7115. The agency shall submit a report to the Legislature on or before July 1, 1996, and every year thereafter, which:

(a) Evaluates the effect of the program on employment, investment, and incomes, and on state and local tax revenues in designated local agency military base recovery areas.

(b) Indicates whether the number of existing local agency military base recovery areas should be expanded, by how many, and under what applicable time schedules.

(c) Information from the Franchise Tax Board on the dollar value of local agency military base recovery area tax credits that are claimed each year by businesses.

7116. (a) A local agency military base recovery area governing body shall provide information at the request of the agency as necessary for the agency to prepare the report required pursuant to Section 7115.

(b) A local agency military base recovery area governing body shall provide information at the request of the agency as necessary for the agency to determine whether the governing body is complying with the terms of the approved application.

(c) If the agency determines that a local agency military base recovery area governing body is not complying with the terms of the approved application for designation, the agency shall provide written notice of the program deficiencies and the governing body shall be given six months to correct the deficiencies.

(d) The agency shall revoke the designation of a local agency military base recovery area if the agency determines that the governing body granted the designation has not complied with the terms of the approved application for designation within six months after written notice pursuant to subdivision (c), and shall not be considered a local agency military base recovery area until the deficiencies are corrected.

(e) Any companies located in the local agency military base

recovery area shall not be penalized during any period of revocation and may continue to operate with incentives provided pursuant to this chapter.

7117. A business located within a local agency military base recovery area shall be eligible for the tax benefits set forth within Sections 17053.45, 17053.46, 17268, 17276.2, 23645, 23646, 24356.8, and 24416.2 of the Revenue and Taxation Code only if it provides a net increase in jobs in the local agency military base recovery area within the first two years from the business' initial date of operation. If the business fails to meet its obligations under the local agency military base recovery area plan or the requirements of this act, any tax benefits received under those sections shall be recaptured, as provided in each of those sections.

SEC. 2. Section 17053.45 is added to the Revenue and Taxation Code, to read:

17053.45. (a) For each taxable year beginning on or after January 1, 1995, and before January 1, 2003, there shall be allowed as a credit against the "net tax" (as defined by Section 17039) an amount equal to the sales or use tax paid or incurred by the taxpayer in connection with the purchase of qualified property to the extent that the qualified property does not exceed a value of one million dollars ($1,000,000).

(b) For purposes of this section:

(1) "LAMBRA" means a local agency military base recovery area designated in accordance with Section 7114 of the Government Code.

(2) "Taxpayer" means a taxpayer or partnership that conducts a trade or business within a LAMBRA and, for the first two taxable years, has a net increase in jobs (defined as 2,000 paid hours per employee per year) of one or more employees in the LAMBRA.

(A) The net increase in the number of jobs shall be determined by subtracting the total number of full-time employees (defined as 2,000 paid hours per employee per year) the taxpayer employed in this state in the taxable year prior to commencing business operations in the LAMBRA from the total number of full-time employees the taxpayer employed in this state during the second taxable year after commencing business operations in the LAMBRA. For taxpayers who commence doing business in this state with their LAMBRA business operation, the number of employees for the taxable year prior to commencing business operations in the LAMBRA shall be zero. If the taxpayer has a net increase in jobs in the state, the credit shall be allowed only if one or more full-time employees is employed within the LAMBRA.

(B) The total number of employees employed in the LAMBRA shall equal the sum of both of the following:

(i) The total number of hours worked in the LAMBRA for the taxpayer by employees (not to exceed 2,000 hours per employee) who are paid an hourly wage divided by 2,000.

(ii) The total number of months worked in the LAMBRA for the

taxpayer by employees who are salaried employees divided by 12.

(C) In the case of a taxpayer who first commences doing business in the LAMBRA during the taxable year, for purposes of clauses (i) and (ii), respectively, of subparagraph (B) the divisors "2,000" and "12" shall be multiplied by a fraction, the numerator of which is the number of months of the taxable year that the taxpayer was doing business in the LAMBRA and the denominator of which is 12.

(3) "Qualified property" means the purchase of any of the following for exclusive use in a LAMBRA:

(A) High technology equipment, including, but not limited to, computers and electronic processing equipment.

(B) Aircraft maintenance equipment, including, but not limited to, engine stands, hydraulic mules, power carts, test equipment, handtools, aircraft start carts, and tugs.

(C) Aircraft components, including, but not limited to, engines, fuel control units, hydraulic pumps, avionics, starts, wheels, and tires.

(D) Any property that is Section 1245 property, as defined in Section 1245(a)(3) of the Internal Revenue Code.

(c) The credit provided under subdivision (a) shall be allowed only for qualified property manufactured in California unless qualified property of a comparable quality and price is not available for timely purchase and delivery from a California manufacturer.

(d) In the case where the credit allowed under subdivision (a) exceeds the limitation set forth in subdivision (f), that portion of the credit which exceeds the limitation may be carried over and added to the credit computed under subdivision (a) in succeeding years, until the credit is exhausted.

(e) Any taxpayer who elects to be subject to this section shall not be entitled to increase the basis of the property as otherwise required by Section 164(a) of the Internal Revenue Code with respect to sales or use tax paid or incurred in connection with the purchase of qualified property.

(f) The amount of the credit provided by this section, including credit carryover from prior years, in any taxable year shall not exceed the amount of tax that would be imposed on the income attributed to business activities of the taxpayer within a LAMBRA as if that attributable income represented all the income of the taxpayer subject to tax under this part. In the event that a credit carryover is allowable under subdivision (d) for any taxable year after the LAMBRA designation has expired, the LAMBRA shall be deemed to remain in existence for purposes of computing this limitation. The amount of that income shall be determined in accordance of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section as follows:

(1) Income shall be apportioned to a LAMBRA by multiplying total income from the business by a fraction, the numerator of which is the property factor, plus the payroll factor, and the denominator of which is 2.

(2) "The LAMBRA" shall be substituted for "this state."

(g) (1) If the qualified property is disposed of or no longer used by the taxpayer in the local agency military base recovery area, at any time before the close of the second taxable year after the property is placed in service, the amount of the credit previously claimed, with respect to that property, shall be added to the taxpayer's tax liability in the taxable year of that disposition or nonuse.

(2) At the close of the second taxable year, if the taxpayer has not increased the number of its employees as determined by paragraph (2) of subdivision (b), then the amount of the credit previously claimed shall be added to the taxpayer's net tax for the taxpayer's second taxable year.

(h) In the case where "qualified property" qualifies for a credit under more than one section in this part, the taxpayer shall make an election as to which section applies to that qualified property.

(i) This section shall remain in effect only until December 1, 2003, and as of that date is repealed. However, any unused credit may continue to be carried forward as provided in subdivision (d), until the credit is exhausted.

SEC. 3. Section 17053.46 is added to the Revenue and Taxation Code, to read:

17053.46. (a) For each taxable year beginning on or after January 1, 1995, and before January 1, 2003, there shall be allowed as a credit against the "net tax" (as defined in Section 17039) to a qualified taxpayer for hiring a qualified disadvantaged individual or a qualified displaced employee during the taxable year for employment in the LAMBRA. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of the qualified wages in the first year of employment.

(2) Forty percent of the qualified wages in the second year of employment.

(3) Thirty percent of the qualified wages in the third year of employment.

(4) Twenty percent of the qualified wages in the fourth year of employment.

(5) Ten percent of the qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means the wages paid or incurred by the employer during the taxable year to qualified disadvantaged individuals or qualified displaced employees. "Qualified wages" means that portion of hourly wages which does not exceed 150 percent of the minimum wage. Qualified wages paid or incurred by the qualified taxpayer during qualified years one through five used to calculate this credit shall not exceed two million dollars ($2,000,000).

(2) "Qualified years one through five wages" means, with respect to any individual, qualified wages received during the 60-month

period beginning with the day the individual commences employment within a LAMBRA.

(3) "Minimum wage" means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(4) "LAMBRA" means a local agency military base recovery area designated in accordance with the provisions of Section 7114 of the Government Code.

(5) "Qualified disadvantaged individual" means an individual who satisfies all of the following requirements:

(A) (i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer's trade or business located in a LAMBRA.

(ii) Who performs at least 50 percent of his or her services for the taxpayer during the taxable year in the LAMBRA.

(B) Who is hired by the employer after the designation of the area as a LAMBRA in which the individual's services were primarily performed.

(C) Any of the following:

(i) An individual who has been determined eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.).

(ii) Any voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(iii) Any individual who has been certified eligible by the Employment Development Department under the federal Targeted Jobs Tax Credit Program whether or not this program is in effect.

(6) "Qualified taxpayer" means a taxpayer or partnership that conducts a trade or business within a LAMBRA and, for the first two taxable years, has a net increase in jobs (defined as 2,000 paid hours per employee per year) of one or more employees in the LAMBRA.

(A) The net increase in the number of jobs shall be determined by subtracting the total number of full-time employees (defined as 2,000 paid hours per employee per year) the taxpayer employed in this state in the taxable year prior to commencing business operations in the LAMBRA from the total number of full-time employees the taxpayer employed in this state during the second taxable year after commencing business operations in the LAMBRA. For taxpayers who commence doing business in this state with their LAMBRA business operation, the number of employees for the taxable year prior to commencing business operations in the LAMBRA shall be zero. If the taxpayer has a net increase in jobs in the state, the credit shall be allowed only if one or more full-time employees is employed within the LAMBRA.

(B) The total number of employees employed in the LAMBRA shall equal the sum of both of the following:

(i) The total number of hours worked in the LAMBRA for the taxpayer by employees (not to exceed 2,000 hours per employee) who are paid an hourly wage divided by 2,000.

(ii) The total number of months worked in the LAMBRA for the taxpayer by employees who are salaried employees divided by 12.

(C) In the case of a taxpayer who first commences doing business in the LAMBRA during the taxable year, for purposes of clauses (i) and (ii), respectively, of subparagraph (B) the divisors "2,000" and "12" shall be multiplied by a fraction, the numerator of which is the number of months of the taxable year that the taxpayer was doing business in the LAMBRA and the denominator of which is 12.

(7) "Qualified displaced employee" means an individual who satisfies all of the following requirements:

(A) Any civilian or military employee of a base or former base that has been displaced as a result of a federal base closure act.

(B) (i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer's trade or business located in a LAMBRA.

(ii) Who performs at least 50 percent of his or her services for the taxpayer during the taxable year in a LAMBRA.

(C) Who is hired by the employer after the designation of the area in which services were performed as a LAMBRA.

(c) (1) For purposes of this section, both of the following apply:

(A) All employees of trades or businesses that are under common control shall be treated as employed by a single employer.

(B) The credit (if any) allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the qualified wages giving rise to the credit.

The regulations prescribed under this paragraph shall be based on principles similar to the principles that apply in the case of controlled groups of corporations as specified in subdivision (e) of Section 23622.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (f)) for any calendar year ending after that acquisition, the employment relationship between an employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(d) (1) If the employment of any employee, with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount (determined under those regulations) equal to the credit allowed under subdivision (a)

for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(2) (A) Paragraph (1) shall not apply to any of the following:

(i) A termination of employment of an employee who voluntarily leaves the employment of the taxpayer.

(ii) A termination of employment of an individual who, before the close of the period referred to in paragraph (1), becomes disabled to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that individual.

(iii) A termination of employment of an individual, if it is determined under the applicable employment compensation laws that the termination was due to the misconduct of that individual.

(iv) A termination of employment of an individual due to a substantial reduction in the trade or business operations of the taxpayer.

(v) A termination of employment of an individual, if that individual is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the taxpayer, if the employee continues to be employed in that trade or business and the taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(4) At the close of the second taxable year, if the taxpayer has not increased the number of its employees as determined by paragraph (6) of subdivision (b), then the amount of the credit previously claimed shall be added to the taxpayer's net tax for the taxpayer's second taxable year.

(e) In the case of an estate or trust, both of the following apply:

(1) The qualified wages for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

(2) Any beneficiary to whom any qualified wages have been apportioned under paragraph (1) shall be treated (for purposes of this part) as the employer with respect to those wages.

(f) The credit shall be reduced by the credit allowed under Section 17053.7. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit.

(g) In the case where the credit allowed under subdivision (a) exceeds the limitation set forth in subdivision (h), that portion of the

credit that exceeds the limitation may be carried over and added to the credit computed under subdivision (a) in succeeding years, until the credit is exhausted.

(h) The amount of the credit including prior year carryovers allowed by this section in any taxable year shall not exceed the amount of tax that would be imposed on the income attributed to business activities of the taxpayer within a LAMBRA as if that attributed net income represented all of the net income of the taxpayer subject to tax under this part. In the event that a credit carryover is allowable under subdivision (g) for any taxable year after the LAMBRA designation has expired, the LAMBRA shall be deemed to remain in existence for purposes of computing this limitation. The amount of that attributed income shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section as follows:

(1) Income shall be apportioned to a LAMBRA by multiplying total income from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(2) "The LAMBRA" shall be substituted for "this state."

(i) (1) In the case where "qualified wages" qualify for a credit under more than one section in this part, the taxpayer shall make an election as to which section applies to those qualified wages.

(2) Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

(j) This section shall remain in effect only until December 1, 2003, and as of that date is repealed. However, any unused credit may continue to be carried forward as provided is subdivision (g), until the credit is exhausted.

SEC. 4. Section 17268 is added to the Revenue and Taxation Code, to read:

17268. (a) For each taxable year beginning on or after January 1, 1995, and before January 1, 2003, a taxpayer may elect to treat the cost of any Section 17268 property as an expense that is not chargeable to the capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which Section 17268 property is placed in service.

(b) In the case of a husband or wife filing separate returns for a taxable year in which a spouse is entitled to the deduction under subdivision (a), the applicable amount shall be equal to 50 percent of the amount otherwise determined under subdivision (a).

(c) (1) An election under this section for any taxable year shall meet both of the following requirements:

(A) Specify the items of Section 17268 property to which the election applies and the portion of the cost of each of those items that is to be taken into account under subdivision (a).

(B) Be made on the taxpayer's return of the tax imposed by this

part for the taxable year.

(2) Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

(d) (1) For purposes of this section, "Section 17268 property" means any recovery property that is Section 1245 property (as defined in Section 1245(a)(3) of the Internal Revenue Code) and that the taxpayer acquires by purchase for exclusive use in a trade or business conducted within a LAMBRA.

(2) For purposes of paragraph (1), "purchase" means any acquisition of property, but only if both of the following apply:

(A) The property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under Section 267 or 707(b) of the Internal Revenue Code (but, in applying Section 267 (b) and Section 267 (c) of the Internal Revenue Code for purposes of this section, Section 267(c)(4) of the Internal Revenue Code shall be treated as providing that the family of an individual shall include only his or her spouse, ancestors, and lineal descendants).

(B) The basis of the property in the hands of the person acquiring it is not determined by either of the following:

(i) In whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired.

(ii) Under Section 1014 of the Internal Revenue Code, relating to basis of property acquired from a decedent.

(3) For purposes of this section, the cost of property does not include that portion of the basis of the property that is determined by reference to the basis of other property held at any time by the person acquiring the property.

(4) This section shall not apply to estates and trusts.

(5) This section shall not apply to any property for which the taxpayer may not make an election for the taxable year under Section 179 of the Internal Revenue Code because of the provisions of Section 179(d) of the Internal Revenue Code.

(6) In the case of a partnership, the dollar limitation in subdivision (f) shall apply at the partnership level and at the partner level.

(7) This section shall not apply to any property described in Section 168(f) of the Internal Revenue Code, relating to property to which Section 168 of the Internal Revenue Code does not apply.

(e) For purposes of this section:

(1) "LAMBRA" means a local agency military base recovery area designated in accordance with the provisions of Section 7114 of the Government Code.

(2) "Taxpayer" means a taxpayer or partnership that conducts a trade or business within a LAMBRA and, for the first two taxable years, has a net increase in jobs (defined as 2,000 paid hours per employee per year) of one or more employees in the LAMBRA.

(A) The net increase in the number of jobs shall be determined by subtracting the total number of full-time employees (defined as

2,000 paid hours per employee per year) the taxpayer employed in this state in the taxable year prior to commencing business operations in the LAMBRA from the total number of full-time employees the taxpayer employed in this state during the second taxable year after commencing business operations in the LAMBRA. For taxpayers who commence doing business in this state with their LAMBRA business operation, the number of employees for the taxable year prior to commencing business operations in the LAMBRA shall be zero. If the taxpayer has a net increase in jobs in the state, the credit shall be allowed only if one or more full-time employees is employed within the LAMBRA.

(B) The total number of employees employed in the LAMBRA shall equal the sum of both of the following:

(i) The total number of hours worked in the LAMBRA for the taxpayer by employees (not to exceed 2,000 hours per employee) who are paid an hourly wage divided by 2,000.

(ii) The total number of months worked in the LAMBRA for the taxpayer by employees who are salaried employees divided by 12.

(C) In the case of a taxpayer who first commences doing business in the LAMBRA during the taxable year, for purposes of clauses (i) and (ii), respectively, of subparagraph (B) the divisors "2,000" and "12" shall be multiplied by a fraction, the numerator of which is the number of months of the taxable year that the taxpayer was doing business in the LAMBRA and the denominator of which is 12.

(f) The deduction allowable under subdivision (a) for any taxable year shall not exceed the following applicable amount for the taxable year of the designation of a LAMBRA and each taxable year thereafter:

The applicable amount is:	
Taxable year of designation	$ 5,000
1st taxable year thereafter	5,000
2nd taxable year thereafter	7,500
3rd taxable year thereafter	7,500
Each taxable year thereafter	10,000

(g) This section shall apply only to property that is used exclusively in a trade or business conducted within a LAMBRA.

(h) (1) Any amounts deducted under subdivision (a) with respect to property that ceases to be used in the trade or business within a LAMBRA at any time before the close of the second taxable year after the property was placed in service shall be included in income for that year.

(2) At the close of the second taxable year, if the taxpayer has not increased the number of its employees as determined by paragraph (2) of subdivision (e), then the amount of the deduction previously claimed shall be added to the taxpayer's taxable income for the taxpayer's second taxable year.

(i) Any taxpayer who elects to be subject to this section shall not

be entitled to claim for the same property the deduction under Section 179 of the Internal Revenue Code, relating to an election to expense certain depreciable business assets.

(j) This section shall remain in effect only until December 1, 2003, and as of that date is repealed.

SEC. 5. Section 17276.2 of the Revenue and Taxation Code is amended to read:

17276.2. The term "qualified taxpayer" as used in Section 17276.1 means any of the following:

(a) A taxpayer engaged in the conduct of a qualified business within a program area (as defined in Section 7082 of the Government Code).

(1) A net operating loss shall not be a net operating loss carryback to any taxable year and a net operating loss for any taxable year beginning on or after the date that the taxpayer becomes a qualified business shall be a net operating loss carryover to each of the 15 taxable years following the taxable year of loss.

(2) For purposes of this subdivision:

(A) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 17276.1, attributable to the business activities of the taxpayer within the program area (as defined in Section 7082 of the Government Code). That attributed loss shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section as follows:

(i) For each taxable year beginning on or after January 1, 1991, and ending on or before December 31, 1996, loss shall be apportioned to the program area by multiplying total loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is 2.

(ii) "The program area" shall be substituted for "this state."

(B) A net operating loss carryover shall be a deduction only with respect to income attributed to the business activities of the taxpayer within the program area (as defined in Section 7082 of the Government Code) determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section as follows:

(i) For each taxable year beginning on or after January 1, 1991, and ending on or before December 31, 1996, income shall be apportioned to the program area by multiplying total income from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is 2.

(ii) "The program area" shall be substituted for "this state."

(b) A taxpayer who is engaged in the conduct of a trade or business within an enterprise zone designated pursuant to Section 7073 of the Government Code on or after that designation.

(1) A net operating loss shall not be a net operating loss carryback to any taxable year and a net operating loss for any taxable year beginning on or after the date that the area in which the taxpayer

conducts a trade or business is designated an enterprise zone shall be a net operating loss carryover to each following taxable year that ends before the expiration or revocation of the designation of the enterprise zone under Section 7073 of the Government Code or to each of 15 taxable years following the taxable year of loss, if longer.

(2) For purposes of this subdivision:

(A) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 17276.1, attributable to the business activities of the taxpayer within the enterprise zone (as defined in Section 7073 of the Government Code). The attributed loss shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section as follows:

(i) For each taxable year beginning on or after January 1, 1991, and ending on or before December 31, 1996, loss shall be apportioned to the enterprise zone by multiplying total loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is 2.

(ii) "The enterprise zone" shall be substituted for "this state."

(B) A net operating loss carryover shall be a deduction only with respect to income attributed to the business activities of the taxpayer within the enterprise zone (as defined in Section 7073 of the Government Code) determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section as follows:

(i) For each taxable year beginning on or after January 1, 1991, and ending on or before December 31, 1996, income shall be apportioned to the enterprise zone by multiplying total income from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is 2.

(ii) "The enterprise zone" shall be substituted for "this state."

(c) A taxpayer engaged in the conduct of a trade or business within the Los Angeles Revitalization Zone designated pursuant to Section 7102 of the Government Code.

(1) A net operating loss shall not be a net operating loss carryback for any taxable year, and a net operating loss for any taxable year beginning on or after the date the area in which the taxpayer conducts a trade or business is designated the Los Angeles Revitalization Zone shall be a net operating loss carryover to each following taxable year that ends before the expiration or revocation of the designation of the Los Angeles Revitalization Zone under Section 7102 of the Government Code or to each of the 15 taxable years following the taxable year of loss, if longer.

(2) For the purposes of this subdivision:

(A) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 17276.1, attributable to the business activities of the taxpayer within the Los Angeles Revitalization Zone (as defined in Section 7102 of the Government Code). The attributable loss shall be determined in

accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified as follows:

(i) For each taxable year beginning on or after January 1, 1992, and ending before January 1, 1998, loss shall be apportioned to the Los Angeles Revitalization Zone by multiplying total loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is 2.

(ii) "The Los Angeles Revitalization Zone" shall be substituted for "this state."

(B) A net operating loss carryover shall be a deduction only with respect to income attributed to the business activities of the taxpayer within the Los Angeles Revitalization Zone (as defined in Section 7102 of the Government Code) determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified as follows:

(i) For each taxable year beginning on or after January 1, 1992, and before January 1, 1998, income shall be apportioned to the Los Angeles Revitalization Zone by multiplying total income from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is 2.

(ii) "The Los Angeles Revitalization Zone" shall be substituted for "this state."

(3) This subdivision shall cease to be operative on January 1, 1998. However, any unused net operating loss may continue to be carried over to following years as provided in this subdivision until the net operating loss has been used.

(d) For each taxable year beginning on or after January 1, 1995, and before January 1, 2003, a taxpayer engaged in the conduct of a trade or business within a LAMBRA.

(1) A net operating loss shall not be a net operating loss carryback for any taxable year, and a net operating loss for any taxable year beginning on or after the date the area in which the taxpayer conducts a trade or business is designated a LAMBRA shall be a net operating loss carryover to each following taxable year that ends before the expiration or revocation of the designation of a LAMBRA under Section 7116 of the Government Code or to each of the 15 taxable years following the taxable year of loss, if longer.

(2) For the purposes of this subdivision:

(A) "LAMBRA" means a local agency military base recovery area designated in accordance with Section 7114 of the Government Code.

(B) "Taxpayer" means a taxpayer or partnership that conducts a trade or business within a LAMBRA and, for the first two taxable years, has a net increase in jobs (defined as 2,000 paid hours per employee per year) of one or more employees in the LAMBRA.

(i) The net increase in the number of jobs shall be determined by subtracting the total number of full-time employees (defined as 2,000 paid hours per employee per year) the taxpayer employed in this state in the taxable year prior to commencing business operations in

the LAMBRA from the total number of full-time employees the taxpayer employed in this state during the second taxable year after commencing business operations in the LAMBRA. For taxpayers who commence doing business in this state with their LAMBRA business operation, the number of employees for the taxable year prior to commencing business operations in the LAMBRA shall be zero. If the taxpayer has a net increase in jobs in the state, the credit shall be allowed only if one or more full-time employees is employed within the LAMBRA.

(ii) The total number of employees employed in the LAMBRA shall equal the sum of both of the following:

(I) The total number of hours worked in the LAMBRA for the taxpayer by employees (not to exceed 2,000 hours per employee) who are paid an hourly wage divided by 2,000.

(II) The total number of months worked in the LAMBRA for the taxpayer by employees who are salaried employees divided by 12.

(iii) In the case of a taxpayer who first commences doing business in the LAMBRA during the taxable year, for purposes of subclauses (I) and (II), respectively, of clause (ii) the divisors "2,000" and "12" shall be multiplied by a fraction, the numerator of which is the number of months of the taxable year that the taxpayer was doing business in the LAMBRA and the denominator of which is 12.

(C) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 17276.1, attributable to the business activities of the taxpayer within a LAMBRA. The attributable loss shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified as follows:

(i) For each taxable year beginning on or after January 1, 1995, loss shall be apportioned to a LAMBRA by multiplying total loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is 2.

(ii) "The LAMBRA" shall be substituted for "this state."

(D) A net operating loss carryover shall be a deduction only with respect to income attributed to the business activities of the taxpayer within a LAMBRA determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified as follows:

(i) For each taxable year beginning on or after January 1, 1995, and before January 1, 2003, income shall be apportioned to a LAMBRA by multiplying total income from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is 2.

(ii) "The LAMBRA" shall be substituted for "this state."

(iii) If a loss carryover is allowable pursuant to this section for any taxable year after the LAMBRA designation has expired, the LAMBRA shall be deemed to remain in existence for purposes of computing this limitation.

(e) A taxpayer who qualifies as a "qualified taxpayer" shall, for the

taxable year of the net operating loss and any taxable year to which that net operating loss may be carried, designate on the return filed for each year the subdivision of this section which applies to that taxpayer with respect to that net operating loss. If the taxpayer is eligible to qualify under more than one subdivision of this section, the designation is to be made after taking into account subdivision (f).

(f) If a taxpayer is eligible to qualify under more than one subdivision of this section as a "qualified taxpayer," with respect to a net operating loss in a taxable year, the taxpayer shall designate which subdivision of this section is to apply to the taxpayer.

(g) Notwithstanding Section 17276, the amount of the loss determined under this section shall be the only net operating loss allowed to be carried over from that taxable year and the designation under subdivision (e) shall be included in the election under Section 17276.1.

SEC. 6. Section 23645 is added to the Revenue and Taxation Code, to read:

23645. (a) For each income year beginning on or after January 1, 1995, and before January 1, 2003, there shall be allowed as a credit against the "tax" (as defined by Section 23036) for the income year an amount equal to the sales or use tax paid or incurred by the taxpayer in connection with the purchase of qualified property to the extent that the qualified property does not exceed a value of twenty million dollars ($20,000,000).

(b) For purposes of this section:

(1) "LAMBRA" means a local agency military base recovery area designated in accordance with Section 7114 of the Government Code.

(2) "Taxpayer" means a bank or corporation that conducts a trade or business within a LAMBRA and, for the first two income years, has a net increase in jobs (defined as 2,000 paid hours per employee per year) of one or more employees in the LAMBRA.

(A) The net increase in the number of jobs shall be determined by subtracting the total number of full-time employees (defined as 2,000 paid hours per employee per year) the taxpayer employed in this state in the income year prior to commencing business operations in the LAMBRA from the total number of full-time employees the taxpayer employed in this state during the second income year after commencing business operations in the LAMBRA. For taxpayers who commence doing business in this state with their LAMBRA business operation, the number of employees for the income year prior to commencing business operations in the LAMBRA shall be zero. If the taxpayer has a net increase in jobs in the state, the credit shall be allowed only if one or more full-time employees is employed within the LAMBRA.

(B) The total number of employees employed in the LAMBRA shall equal the sum of both of the following:

(i) The total number of hours worked in the LAMBRA for the

taxpayer by employees (not to exceed 2,000 hours per employee) who are paid an hourly wage divided by 2,000.

(ii) The total number of months worked in the LAMBRA for the taxpayer by employees that are salaried employees divided by 12.

(C) In the case of a taxpayer who first commences doing business in the LAMBRA during the income year, for purposes of clauses (i) and (ii), respectively, of subparagraph (B) the divisors "2,000" and "12" shall be multiplied by a fraction, the numerator of which is the number of months of the income year that the taxpayer was doing business in the LAMBRA and the denominator of which is 12.

(3) "Qualified property" means the purchase of any of the following for exclusive use in a LAMBRA.

(A) High technology equipment, including, but not limited to, computers and electronic processing equipment.

(B) Aircraft maintenance equipment, including, but not limited to, engine stands, hydraulic mules, power carts, test equipment, handtools, aircraft start carts, and tugs.

(C) Aircraft components, including, but not limited to, engines, fuel control units, hydraulic pumps, avionics, starts, wheels, and tires.

(D) Any property that is Section 1245 property, as defined in Section 1245(a)(3) of the Internal Revenue Code.

(c) The credit provided under subdivision (a) shall only be allowed for qualified property manufactured in California unless qualified property of a comparable quality and price is not available for timely purchase and delivery from a California manufacturer.

(d) In the case where the credit allowed under subdivision (a) exceeds the limitation set forth in subdivision (f), that portion of the credit which exceeds the limitation may be carried over and added to the credit computed under subdivision (a) in succeeding years, until the credit is exhausted.

(e) Any taxpayer who elects to be subject to this section shall not be entitled to increase the basis of the property as otherwise required by Section 164(a) of the Internal Revenue Code with respect to sales or use tax paid or incurred in connection with the purchase of qualified property.

(f) The amount of the credit provided by this section, including credit carryovers from prior years, in any income year shall not exceed the amount of tax that would be imposed on the income attributed to business activities of the taxpayer within a LAMBRA as if that attributable income represented all the income of the taxpayer subject to tax under this part. In the event that a credit carryover is allowable under subdivision (d) for any income year after the LAMBRA designation has expired, the LAMBRA shall be deemed to remain in existence for purposes of computing this limitation. The amount of that income shall be determined in accordance of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section as follows:

(1) Income shall be apportioned to a LAMBRA by multiplying total income from the business by a fraction, the numerator of which

is the property factor, plus the payroll factor, and the denominator of which is 2.

(2) "The LAMBRA" shall be substituted for "this state."

(g) (1) If the qualified property is disposed of or no longer used by the taxpayer in the local agency military base recovery area, at any time before the close of the second taxable year after the property is placed in service, the amount of the credit previously claimed, with respect to that property, shall be added to the taxpayer's tax liability in the taxable year of that disposition or nonuse.

(2) At the close of the second income year, if the taxpayer has not increased the number of its employees as determined by paragraph (2) of subdivision (b), then the amount of the credit previously claimed shall be added to the taxpayer's tax for the taxpayer's second income year.

(h) In the case where "qualified property" qualifies for a credit under more than one section in this part, the taxpayer shall make an election as to which section applies to the qualified property.

(i) This section shall remain in effect only until December 1, 2003, and as of that date is repealed. However, any unused credit may continue to be carried forward as provided in subdivision (d), until the credit is exhausted.

SEC. 7. Section 23646 is added to the Revenue and Taxation Code, to read:

23646. (a) For each income year beginning on or after January 1, 1995, and before January 1, 2003, there shall be allowed as a credit against the "tax" (as defined in Section 23036) to a qualified taxpayer for hiring a qualified disadvantaged individual or a qualified displaced employee during the income year for employment in the LAMBRA. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of the qualified wages in the first year of employment.

(2) Forty percent of the qualified wages in the second year of employment.

(3) Thirty percent of the qualified wages in the third year of employment.

(4) Twenty percent of the qualified wages in the fourth year of employment.

(5) Ten percent of the qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means the wages paid or incurred by the employer during the income year to qualified disadvantaged individuals or qualified displaced employees. "Qualified wages" means that portion of hourly wages which does not exceed 150 percent of the minimum wage. Qualified wages paid or incurred by the employers during qualified years one through five used to calculate this credit shall not exceed two million dollars ($2,000,000).

(2) "Qualified years one through five wages" means, with respect to any individual, qualified wages received during the 60-month period beginning with the day the individual commences employment within a LAMBRA.

(3) "Minimum wage" means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(4) "LAMBRA" means a local agency military base recovery area designated in accordance with the provisions of Section 7114 of the Government Code.

(5) "Qualified disadvantaged individual" means an individual who satisfies all of the following requirements:

(A) (i) At least 90 percent of whose services for the taxpayer during the income year are directly related to the conduct of the taxpayer's trade or business located in a LAMBRA.

(ii) Who performs at least 50 percent of his or her services for the taxpayer during the income year in the LAMBRA.

(B) Who is hired by the employer after the designation of the area as a LAMBRA in which such individual's services were primarily performed.

(C) Any of the following:

(i) An individual who has been determined eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.).

(ii) Any voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(iii) Any individual who has been certified eligible by the Employment Development Department under the federal Targeted Jobs Tax Credit Program whether or not this program is in effect.

(6) "Qualified taxpayer" means a bank or corporation that conducts a trade or business within a LAMBRA and, for the first two income years, has a net increase in jobs (defined as 2,000 paid hours per employee per year) of one or more employees as determined below in the LAMBRA.

(A) The net increase in the number of jobs shall be determined by subtracting the total number of full-time employees (defined as 2,000 paid hours per employee per year) the taxpayer employed in this state in the income year prior to commencing business operations in the LAMBRA from the total number of full-time employees the taxpayer employed in this state during the second income year after commencing business operations in the LAMBRA. For taxpayers who commence doing business in this state with their LAMBRA business operation, the number of employees for the income year prior to commencing business operations in the LAMBRA shall be zero. If the taxpayer has a net increase in jobs in the state, the credit shall be allowed only if one or more full-time

employees is employed within the LAMBRA.

(B) The total number of employees employed in the LAMBRA shall equal the sum of both of the following:

(i) The total number of hours worked in the LAMBRA for the taxpayer by employees (not to exceed 2,000 hours per employee) who are paid an hourly wage divided by 2,000.

(ii) The total number of months worked in the LAMBRA for the taxpayer by employees who are salaried employees divided by 12.

(C) In the case of a qualified taxpayer that first commences doing business in the LAMBRA during the income year, for purposes of clauses (i) and (ii), respectively, of subparagraph (B) the divisors "2,000" and "12" shall be multiplied by a fraction, the numerator of which is the number of months of the income year that the taxpayer was doing business in the LAMBRA and the denominator of which is 12.

(7) "Qualified displaced employee" means an individual who satisfies all of the following requirements:

(A) Any civilian or military employee of a base or former base that has been displaced as a result of a federal base closure act.

(B) (i) At least 90 percent of whose services for the taxpayer during the income year are directly related to the conduct of the taxpayer's trade or business located in a LAMBRA.

(ii) Who performs at least 50 percent of his or her services for the taxpayer during the income year in a LAMBRA.

(C) Who is hired by the employer after the designation of the area in which services were performed as a LAMBRA.

(c) (1) For purposes of this section, both of the following apply:

(A) All employees of all corporations that are members of the same controlled group of corporations shall be treated as employed by a single employer.

(B) The credit (if any) allowable by this section to each member shall be determined by reference to its proportionate share of the qualified wages giving rise to the credit.

(2) For purposes of this subdivision, "controlled group of corporations" has the meaning given to that term by Section 1563(a) of the Internal Revenue Code, except that both of the following apply:

(A) "More than 50 percent" shall be substituted for "at least 80 percent" each place it appears in Section 1563(a)(1) of the Internal Revenue Code.

(B) The determination shall be made without regard to Section 1563(a)(4) and Section 1563(e)(3)(C) of the Internal Revenue Code.

(3) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (f)) for any calendar year ending after that acquisition, the employment relationship between an

employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(d) (1) If the employment of any employee with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the income year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that income year and all prior income years attributable to qualified wages paid or incurred with respect to that employee.

(2) (A) Paragraph (1) shall not apply to any of the following:

(i) A termination of employment of an employee who voluntarily leaves the employment of the taxpayer.

(ii) A termination of employment of an individual who, before the close of the period referred to in paragraph (1), becomes disabled to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that individual.

(iii) A termination of employment of an individual, if it is determined under the applicable unemployment compensation laws that the termination was due to the misconduct of that individual.

(iv) A termination of employment of an individual due to a substantial reduction in the trade or business operations of the taxpayer.

(v) A termination of employment of an individual, if that individual is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated by either of the following:

(i) A transaction to which Section 381 (a) of the Internal Revenue Code applies, if the employee continues to be employed by the acquiring corporation.

(ii) A mere change in the form of conducting the trade or business of the taxpayer, if the employee continues to be employed in that trade or business and the taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(4) At the close of the second income year, if the taxpayer has not increased the number of its employees as determined by paragraph (6) of subdivision (b), then the amount of the credit previously claimed shall be added to the taxpayer's tax for the taxpayer's second income year.

(e) In the case of an organization to which Section 593 of the Internal Revenue Code applies, and a regulated investment company or a real estate investment trust subject to taxation under this part, rules similar to the rules provided in Section 46(e) and Section 46(h) of the Internal Revenue Code shall apply.

(f) The credit shall be reduced by the credit allowed under Section 23621. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit.

(g) In the case where the credit allowed under subdivision (a) exceeds the limitation set forth in subdivision (h), that portion of the credit that exceeds the limitation may be carried over and added to the credit computed under subdivision (a) in succeeding years, until the credit is exhausted.

(h) The amount of the credit including prior year carryovers allowed by this section shall not in any year exceed the amount of tax that would be imposed on the income attributed to business activities of the taxpayer within a LAMBRA as if that attributed income represented all of the income of the taxpayer subject to tax under this part. In the event that a credit carryover is allowable under subdivision (g) for any income year after the LAMBRA designation has expired, the LAMBRA shall be deemed to remain in existence for purposes of computing this limitation. The amount of that attributed income shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section as follows:

(1) Income shall be apportioned to a LAMBRA by multiplying total income from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is 2.

(2) "The LAMBRA" shall be substituted for "this state."

(i) (1) In the case where "qualified wages" qualify for a credit under more than one section in this part, the taxpayer shall make an election as to which section applies to those qualified wages.

(2) Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

(j) This section shall remain in effect only until December 1, 2003, and as of that date is repealed. However, any unused credit may continue to be carried over as provided in subdivision (g), until the credit is exhausted.

SEC. 8. Section 24356.8 is added to the Revenue and Taxation Code, to read:

24356.8. (a) For each income year beginning on or after January 1, 1995, and before January 1, 2003, a taxpayer may elect to treat the cost of any Section 24356.8 property as an expense that is not chargeable to the capital account. Any cost so treated shall be

allowed as a deduction for the income year in which the Section 24356.8 property is placed in service.

(b) (1) An election under this section for any income year shall meet both of the following requirements:

(A) Specify the items of Section 24356.8 property to which the election applies and the portion of the cost of each of those items that is to be taken into account under subdivision (a).

(B) Be made on the taxpayer's return of the tax imposed by this part for the income year.

(2) Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

(c) (1) For purposes of this section, "Section 24356.8 property" means any recovery property that is Section 1245 property (as defined in Section 1245(a)(3) of the Internal Revenue Code) and that the taxpayer acquires by purchase for exclusive use in a trade or business conducted within a LAMBRA.

(2) For purposes of paragraph (1), "purchase" means any acquisition of property, but only if all of the following apply:

(A) The property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under Section 267 or 707(b) of the Internal Revenue Code (but, in applying Sections 267(b) and 267(c) of the Internal Revenue Code for purposes of this section, Section 267(c)(4) of the Internal Revenue Code shall be treated as providing that the family of an individual shall include only his or her spouse, ancestors, and lineal descendants).

(B) The property is not acquired by one component member of an affiliated group from another component member of the same affiliated group.

(C) The basis of the property in the hands of the person acquiring it is not determined in whole or in part by reference to the adjusted basis of that property in the hands of the person from whom acquired.

(3) For purposes of this section, the cost of property does not include so much of the basis of that property as is determined by reference to the basis of other property held at any time by the person acquiring that property.

(4) This section shall not apply to any property for which the taxpayer may not make an election for the income year under Section 179 of the Internal Revenue Code because of the provisions of Section 179(d) of the Internal Revenue Code.

(5) For purposes of subdivision (b), both of the following apply:

(A) All members of an affiliated group shall be treated as one taxpayer.

(B) The taxpayer shall apportion the dollar limitation contained in subdivision (f) among the component members of the affiliated group in whatever manner the board shall by regulations prescribe.

(6) For purposes of paragraphs (2) and (5), "affiliated group" has

the meaning assigned to it by Section 1504 of the Internal Revenue Code, except that, for these purposes, the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in Section 1504(a) of the Internal Revenue Code.

(7) This section shall not apply to any property described in Section 168(f) of the Internal Revenue Code.

(8) In the case of an S corporation, the dollar limitation contained in subdivision (f) shall be applied at the entity level and at the shareholder level.

(d) For purposes of this section:

(1) "LAMBRA" means a local agency military base recovery area designated in accordance with the provisions of Section 7114 of the Government Code.

(2) "Taxpayer" means a bank or corporation that conducts a trade or business within a LAMBRA and, for the first two income years, has a net increase in jobs (defined as 2,000 paid hours per employee per year) of one or more employees in the LAMBRA.

(A) The net increase in the number of jobs shall be determined by subtracting the total number of full-time employees (defined as 2,000 paid hours per employee per year) the taxpayer employed in this state in the income year prior to commencing business operations in the LAMBRA from the total number of full-time employees the taxpayer employed in this state during the second income year after commencing business operations in the LAMBRA. For taxpayers who commence doing business in this state with their LAMBRA business operation, the number of employees for the income year prior to commencing business operations in the LAMBRA shall be zero. If the taxpayer has a net increase in jobs in the state, the credit shall be allowed only if one or more full-time employees is employed within the LAMBRA.

(B) The total number of employees employed in the LAMBRA shall equal the sum of both of the following:

(i) The total number of hours worked in the LAMBRA for the taxpayer by employees (not to exceed 2,000 hours per employee) who are paid an hourly wage divided by 2,000.

(ii) The total number of months worked in the LAMBRA for the taxpayer by employees who are salaried employees divided by 12.

(C) In the case of a taxpayer that first commences doing business in the LAMBRA during the income year, for purposes of clauses (i) and (ii), respectively, of subparagraph (B) the divisors "2,000" and "12" shall be multiplied by a fraction, the numerator of which is the number of months of the income year that the taxpayer was doing business in the LAMBRA and the denominator of which is 12.

(e) Any taxpayer who elects to be subject to this section shall not be entitled to claim additional depreciation pursuant to Section 24356 with respect to any property that constitutes Section 24356.8 property.

(f) The deduction allowable under subdivision (a) for any income year shall not exceed the following applicable amount for the income

year of the designation of a LAMBRA and each income year thereafter:

The applicable amount is:

Income year of designation	$ 5,000
1st income year thereafter	5,000
2nd income year thereafter	7,500
3rd income year thereafter	7,500
Each income year thereafter	10,000

(g) This section shall apply only to property that is used exclusively in a trade or business conducted within a LAMBRA.

(h) (1) Any amounts deducted under subdivision (a) with respect to property that ceases to be used in the trade or business within a LAMBRA at any time before the close of the second income year after the property was placed in service shall be included in income for that year.

(2) At the close of the second income year, if the taxpayer has not increased the number of its employees as determined by paragraph (2) of subdivision (d), then the amount of the deduction previously claimed shall be added to the taxpayer's net income for the taxpayer's second income year.

(i) Any taxpayer who elects to be subject to this section shall not be entitled to claim for the same property the deduction under Section 179 of the Internal Revenue Code, relating to an election to expense certain depreciable business assets.

(j) This section shall remain in effect only until December 1, 2003, and as of that date is repealed.

SEC. 9. Section 24416.2 of the Revenue and Taxation Code is amended to read:

24416.2. The term "qualified taxpayer" as used in Section 24416.1 means any of the following:

(a) A taxpayer engaged in the conduct of a qualified business within a program area (as defined in Section 7082 of the Government Code).

(1) A net operating loss shall not be a net operating loss carryback for any income year and a net operating loss for any income year beginning on or after the date that the taxpayer becomes a qualified business shall be a net operating loss carryover to each of the 15 income years following the income year of loss.

(2) For purposes of this subdivision:

(A) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416.1, attributable to the business activities of the taxpayer within the program area (as defined in Section 7082 of the Government Code). That attributed loss shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section as follows:

(i) For each income year beginning on or after January 1, 1991,

and ending on or before December 31, 1996, loss shall be apportioned to the program area by multiplying total loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is 2.

(ii) "The program area" shall be substituted for "this state."

(B) A net operating loss carryover shall be a deduction only with respect to income attributed to the business activities of the taxpayer within the program area (as defined in Section 7082 of the Government Code) determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section as follows:

(i) For each income year beginning on or after January 1, 1991, and ending on or before December 31, 1996, income shall be apportioned to the program area by multiplying total income from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is 2.

(ii) "The program area" shall be substituted for "this state."

(b) A taxpayer who is engaged in the conduct of a trade or business within an enterprise zone designated pursuant to Section 7073 of the Government Code on or after that designation.

(1) (A) A net operating loss shall not be a net operating loss carryback to any income year and, except as provided in subparagraph (B), a net operating loss for any income year beginning on or after the date that the area in which the taxpayer conducts a trade or business is designated an enterprise zone shall be a net operating loss carryover to each following income year that ends before the expiration or revocation of the designation of the enterprise zone under Section 7073 of the Government Code or to each of 15 income years following the income year of loss, if longer.

(B) In the case of a financial institution to which Section 585, 586, or 593 of the Internal Revenue Code applies, a net operating loss for any income year beginning on or after January 1, 1984, shall be a net operating loss carryover to each of the five income years following the income year of the loss. Subdivision (b) of Section 24416.1 shall not apply.

(2) For purposes of this subdivision:

(A) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416.1, attributable to the business activities of the taxpayer within the enterprise zone (as defined in Section 7073 of the Government Code). The attributed loss shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section as follows:

(i) For each income year beginning on or after January 1, 1991, and ending on or before December 31, 1996, loss shall be apportioned to the enterprise zone by multiplying total loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is 2.

(ii) "The enterprise zone" shall be substituted for "this state."

(B) A net operating loss carryover shall be a deduction only with respect to income attributed to the business activities of the taxpayer within the enterprise zone (as defined in Section 7073 of the Government Code) determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section as follows:

(i) For each income year beginning on or after January 1, 1991, and ending on or before December 31, 1996, income shall be apportioned to the enterprise zone by multiplying total income from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is 2.

(ii) "The enterprise zone" shall be substituted for "this state."

(c) A taxpayer engaged in the conduct of a trade or business within the Los Angeles Revitalization Zone designated pursuant to Section 7102 of the Government Code.

(1) (A) A net operating loss shall not be a net operating loss carryback for any income year and, except as provided in subparagraph (B), a net operating loss for any income year beginning on or after the date the area in which the taxpayer conducts a trade or business is designated the Los Angeles Revitalization Zone shall be a net operating loss carryover to each following income year that ends before the expiration or revocation of the designation of the Los Angeles Revitalization Zone under Section 7102 of the Government Code or to each of the 15 income years following the income year of loss, if longer.

(B) In the case of a financial institution to which Section 585, 586, or 593 of the Internal Revenue Code applies, a net operating loss for any income year beginning on or after January 1, 1984, shall be a net operating loss carryover to each of the five years following the income year of the loss. Subdivision (b) of Section 24416.1 shall not apply.

(2) For the purposes of this subdivision:

(A) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416.1, attributable to the business activities of the taxpayer within the Los Angeles Revitalization Zone (as defined in Section 7102 of the Government Code). The attributable loss shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120), modified as follows:

(i) The loss shall be apportioned to the Los Angeles Revitalization Zone by multiplying the loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is 2.

(ii) "The Los Angeles Revitalization Zone" shall be substituted for this state.

(B) A net operating loss carryover shall be a deduction only with respect to income attributable to the business activities of the taxpayer within the Los Angeles Revitalization Zone (as defined in Section 7102 of the Government Code) determined in accordance

with the provisions of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified as follows:

(i) For each taxable year beginning on or after January 1, 1992, and before January 1, 1998, income shall be apportioned to the Los Angeles Revitalization Zone by multiplying total income from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is 2.

(ii) "The Los Angeles Revitalization Zone" shall be substituted for "this state."

(3) This subdivision shall cease to be operative on January 1, 1998. However, any unused net operating loss may continue to be carried over to following years as provided in this subdivision until the net operating loss has been used.

(d) For each income year beginning on or after January 1, 1995, and before January 1, 2003, a taxpayer engaged in the conduct of a trade or business within a LAMBRA.

(1) (A) A net operating loss shall not be a net operating loss carryback for any income year and, except as provided in subparagraph (B), a net operating loss for any income year beginning on or after the date the area in which the taxpayer conducts a trade or business is designated a LAMBRA shall be a net operating loss carryover to each following income year that ends before the expiration or revocation of the designation of a LAMBRA under Section 7116 of the Government Code or to each of the 15 income years following the income year of loss, if longer.

(B) In the case of a financial institution to which Section 585, 586, or 593 of the Internal Revenue Code applies, a net operating loss for any income year beginning on or after January 1, 1984, shall be a net operating loss carryover to each of the five years following the income year of the loss. Subdivision (b) of Section 24416.1 shall not apply.

(2) For the purposes of this subdivision:

(A) "LAMBRA" means a local agency military base recovery area designated in accordance with Section 7114 of the Government Code.

(B) "Taxpayer" means a bank or corporation that conducts a trade or business within a LAMBRA and, for the first two income years, has a net increase in jobs (defined as 2,000 paid hours per employee per year) of one or more employees in the LAMBRA.

(i) The net increase in the number of jobs shall be determined by subtracting the total number of full-time employees (defined as 2,000 paid hours per employee per year) the taxpayer employed in this state in the income year prior to commencing business operations in the LAMBRA from the total number of full-time employees the taxpayer employed in this state during the second income year after commencing business operations in the LAMBRA. For taxpayers who commence doing business in this state with their LAMBRA business operation, the number of employees for the income year prior to commencing business operations in the LAMBRA shall be

zero. If the taxpayer has a net increase in jobs in the state, the credit shall be allowed only if one or more full-time employees is employed within the LAMBRA.

(ii) The total number of employees employed in the LAMBRA shall equal the sum of both of the following:

(I) The total number of hours worked in the LAMBRA for the taxpayer by employees (not to exceed 2,000 hours per employee) who are paid an hourly wage divided by 2,000.

(II) The total number of months worked in the LAMBRA for the taxpayer by employees who are salaried employees divided by 12.

(iii) In the case of a taxpayer that first commences doing business in the LAMBRA during the income year, for purposes of subclauses (I) and (II), respectively, of clause (ii) the divisors "2,000" and "12" shall be multiplied by a fraction, the numerator of which is the number of months of the income year that the taxpayer was doing business in the LAMBRA and the denominator of which is 12.

(C) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416.1, attributable to the business activities of the taxpayer within a LAMBRA. The attributable loss shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120), modified as follows:

(i) For each income year beginning on or after January 1, 1995, the loss shall be apportioned to a LAMBRA by multiplying the loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is 2.

(ii) "The LAMBRA" shall be substituted for "this state."

(D) A net operating loss carryover shall be a deduction only with respect to income attributable to the business activities of the taxpayer within a LAMBRA determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified as follows:

(i) For each taxable year beginning on or after January 1, 1995, and before January 1, 2003, income shall be apportioned to a LAMBRA by multiplying total income from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is 2.

(ii) "The LAMBRA" shall be substituted for "this state."

(iii) If a loss carryover is allowable pursuant to this section for any income year after the LAMBRA designation has expired, the LAMBRA shall be deemed to remain in existence for purposes of computing this limitation.

(e) A taxpayer who qualifies as a "qualified taxpayer" shall, for the income year of the net operating loss and any income year to which that net operating loss may be carried, designate on the return filed for each year the subdivision of this section which applies to that taxpayer with respect to that net operating loss. If the taxpayer is eligible to qualify under more than one subdivision of this section, the designation is to be made after taking into account subdivision

(f).

(f) If a taxpayer is eligible to qualify under more than one subdivision of this section as a "qualified taxpayer," with respect to a net operating loss in an income year, the taxpayer shall designate which subdivision of this section is to apply to the taxpayer.

(g) Notwithstanding Section 24416, the amount of the loss determined under Section 24416.1 shall be the only net operating loss allowed to be carried over from that income year and the designation under subdivision (e) shall be included in the election under Section 24416.1.

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 for the economic benefits of this act to be achieved as soon as possible, this act must take effect immediately.

CHAPTER 1217

An act to amend Sections 33349, 33385, and 33388 of, and to add Section 33385.3 to, the Health and Safety Code, relating to redevelopment.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 33349 of the Health and Safety Code is amended to read:

33349. (a) The agency shall publish notice of the hearing not less than once a week for four successive weeks prior to the hearing. The notice shall be published in a newspaper of general circulation, printed and published in the community, or if there is none, in a newspaper selected by the agency. The notice of hearing shall include a legal description of the boundaries of the area or areas designated in the proposed redevelopment plan and a general statement of the scope and objectives of the plan.

(b) Copies of the notices published pursuant to this section shall be mailed, by first-class mail, to the last known assessee of each parcel of land in the area designated in the redevelopment plan, at his or her last known address as shown on the last equalized assessment roll of the county; or where a city assesses, levies, and collects its own taxes, as shown on the last equalized assessment roll of the city; or to the owner of each parcel of land within the boundaries of the area or areas designated in the proposed redevelopment plan, as shown on the records of the county recorder 30 days prior to the date the notice is published.

(c) (1) Notice shall also be provided, by first-class mail, to all residents and businesses within the project area at least 30 days prior to the hearing.

(2) The mailed notice requirement of this subdivision shall only apply when mailing addresses to all individuals and businesses, or to all occupants, are obtainable by the agency at a reasonable cost. The notice shall be mailed by first-class mail, but may be addressed to "occupant." If the agency has acted in good faith to comply with the notice requirements of this subdivision, the failure of the agency to provide the required notice to residents or businesses unknown to the agency or whose addresses cannot be obtained at a reasonable cost, shall not, in and of itself, invalidate a redevelopment plan or amendment to a redevelopment plan.

(d) Copies of the notices published pursuant to this section shall also be mailed to the governing body of each of the taxing agencies that levies taxes upon any property in the project area designated in the proposed redevelopment plan. Notices sent pursuant to this subdivision shall be mailed by certified mail, return receipt requested.

SEC. 2. Section 33385 of the Health and Safety Code is amended to read:

33385. (a) The legislative body of a city or county shall call upon the residents and existing community organizations in a redevelopment project area to form a project area committee in either of the following situations:

(1) A substantial number of low-income persons or moderate-income persons, or both, reside within the project area, and the redevelopment plan as adopted will contain authority for the agency to acquire, by eminent domain, property on which any persons reside.

(2) The redevelopment plan as adopted contains one or more public projects that will displace a substantial number of low-income persons or moderate-income persons, or both.

(b) The legislative body shall, by resolution, adopt a procedure pursuant to this section for the formation of the project area committee. The procedure shall include, but not be limited to, all of the following:

(1) Publicizing the opportunity to serve on the project area committee, by providing written notice by first-class mail to all residents, businesses, and community organizations, including religious institutions and other nonprofit organizations, within the project area at least 30 days prior to the formation of the project area committee.

(2) The agency shall conduct a minimum of one public meeting to explain the establishment of, functions of, and opportunity to serve on, the project area committee. At the public meeting, the agency shall distribute copies of this article, copies of Sections 33347.5 and 33366, copies of the procedure adopted pursuant to this subdivision, copies of the redevelopment plan or preliminary plan or the

pertinent portions thereof, and any other materials the agency determines would be useful.

(3) Providing published notice of all meetings, hearings, or plebiscites conducted by, or on behalf of, the agency or legislative body relative to the formation and selection of the project area committee in the same manner as specified in subdivision (a) of Section 65090 of the Government Code.

(4) (A) Providing written notice to all residents, businesses, and community organizations in the project area of all meetings, hearings, or plebiscites conducted by, or on behalf of, the agency or legislative body relative to the formation and selection of the project area committee. This mailed notice requirement shall only apply when mailing addresses to all individuals and businesses, or to all occupants, are obtainable by the agency at a reasonable cost. The notice shall be mailed by first-class mail, but may be addressed to "occupant." In lieu of providing separate notice for each meeting, hearing, or plebiscite, the agency may provide a single notice pursuant to this paragraph stating all dates, times, and locations of any meetings, hearings, and plebiscites relative to the formation and selection of the project area committee.

(B) If the agency has acted in good faith to comply with the notice requirements of this paragraph, the failure of the agency to provide the required notice to residents or businesses unknown to the agency or whose addresses cannot be obtained at a reasonable cost, shall not, in and of itself, invalidate the formation or actions of the project area committee.

(5) Providing other forms of notice appropriate to the community in which the project area is to be established, as determined by the agency. Notice provided pursuant to this paragraph may include public service announcements, advertisements in foreign-language publications, or flyers.

(6) The number of community organizations and the method of selection, which may include election, appointment, or both.

(7) Any other forms of assistance which the legislative body requires in connection with the formation of the project area committee.

(c) The project area committee shall only include, when applicable, elected representatives of residential owner occupants, residential tenants, business owners, and existing organizations within the project area. Each group shall be adequately represented. Each organization represented pursuant to this subdivision shall appoint one of its members to the project area committee. No project area committee member may be appointed by the legislative body or the redevelopment agency or any member of either body. The members of the committee shall serve without compensation.

(d) (1) The election of a representative project area committee shall be held in each project area within 100 days after the project area is selected. The legislative body shall adopt, after a duly noticed public hearing, communitywide procedures for filing for election,

publicizing an election, holding an election, and for reviewing disputed elections, filling vacated seats, and other matters related to the electoral process. These procedures shall prohibit crossover voting between categories of residential owner occupants, residential tenants, and business owners to ensure, for example, that a business owner cannot vote for a tenant representative. However, if the legislative body determines that the method of selection of community organizations shall include election pursuant to subdivision (b), the legislative body shall determine the appropriate electorate and may authorize crossover voting in the election of community organizations.

(2) The procedures adopted pursuant to this subdivision shall provide that a challenge to an election or to an electoral procedure shall be filed with the legislative body no more than 15 calendar days after the election. The legislative body shall adopt a finding that all adopted procedures of the legislative body were followed in the election. The procedures shall require that the validity of all challenges be determined within 30 days following the date of the election.

(e) For project areas selected prior to March 7, 1973, the legislative body may, but shall not be required to, call upon the residents and existing community organizations to form a project area committee.

(f) If the project does not contain a substantial number of low- and moderate-income individuals, the agency shall either call upon the residents and existing community organizations to form a project area committee or the agency shall consult with, and obtain the advice of, residents and community organizations as provided for project area committees in Section 33386 and provide those persons and organizations with the redevelopment plan prior to submitting it to the legislative body.

(g) Nothing contained in this section shall prevent an agency, or the legislative body of any city or county, from creating any other committee for a project area. However, these committees shall not be merged into the project area committee subsequent to the formation thereof, and a member of any of these other committees shall not be entitled to vote in meetings of the project area committee, unless he or she is also a member of the project area committee.

(h) The meeting of a project area committee shall be subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Division 2 of Title 5 of the Government Code).

(i) The agency may charge fees to persons purchasing or leasing property from the agency in the project area and to persons participating in redevelopment of the project area under an owner participation agreement to defray any cost to the agency or legislative body in implementing this section.

(j) The amendments made to this section by the act that adds this subdivision shall be applicable only to a redevelopment plan that is

adopted or amended on or after the effective date of the act that adds this subdivision.

SEC. 3. Section 33385.3 is added to the Health and Safety Code, to read:

33385.3. (a) If a project area committee does not exist, and the agency proposes to amend a redevelopment plan, the agency shall establish a project area committee pursuant to Section 33385 if the proposed amendment to a redevelopment plan would do either of the following:

(1) Grant the authority to the agency to acquire by eminent domain property on which persons reside in a project area in which a substantial number of low- and moderate-income persons reside.

(2) Add territory in which a substantial number of low- and moderate-income persons reside and grant the authority to the agency to acquire by eminent domain property on which persons reside in the added territory. The project area committee may be composed of persons from only the added territory or both the added area and the existing project area.

(b) Once a project area committee is formed, the requirements of Section 33385.5, except for project area committee expansion, shall be followed.

SEC. 4. Section 33388 of the Health and Safety Code is amended to read:

33388. (a) Upon recommendation of the project area committee, funds as determined necessary by the legislative body for the operation of the project area committee shall be allocated to the committee by the legislative body. This allocation shall include funds or equivalent resources for a committee office, equipment and supplies, legal counsel, and adequate staff for the purposes set forth in Section 33386.

(b) No funds allocated under this section shall be used for any litigation, other than litigation to enforce or defend the rights of the project area committee under this part.

SEC. 5. The Legislature finds and declares that subdivision (h) of Section 33385, as amended by this act, is declaratory of, and does not constitute a change in, existing law.

CHAPTER 1218

An act to amend Sections 8880.28, 8880.39, and 8880.55 of the Government Code, relating to the state lottery, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 8880.28 of the Government Code is amended to read:

8880.28. (a) The commission shall promulgate rules and regulations specifying the types of lottery games to be conducted by the Lottery, provided:

(1) No lottery game may use the theme of bingo, roulette, dice, baccarat, blackjack, Lucky 7's, draw poker, slot machines, dog racing, or horse racing.

(2) In lottery games utilizing tickets, each ticket in these games shall bear a unique number distinguishing it from every other ticket in that game; and no name of an elected official shall appear on these tickets.

(3) In games utilizing computer terminals or other devices, no coins or currency shall be dispensed to players from these computer terminals or devices.

(b) Notwithstanding subdivision (a), no changes in the types of games or methods of delivery of these games that incorporate technologies or mediums that did not exist, were not widely available, or were not commercially feasible at the time of the enactment of this chapter in 1984 shall be made, unless all of the following conditions are met:

(1) This chapter is amended by statute to expressly authorize these changes.

(2) The act making the amendments contains express legislative findings that the amendments are consistent with the terms of, and further the purposes of, this chapter.

(3) The amendments comport with applicable state and federal law.

(c) For purposes of this section, a change in the method of delivery means a material change in the way a consumer directly interacts with the game.

(d) Subdivision (b) shall not apply to technological changes implemented prior to the effective date of this subdivision.

(e) This section shall not be construed to limit any internal technological changes made to the equipment or components utilized by the Lottery.

SEC. 2. Section 8880.39 of the Government Code is amended to read:

8880.39. The director shall confer as frequently as necessary or desirable, but not less than once every quarter, with the commission, on the operation and administration of the lottery. The director shall make available for inspection by the commission, upon request, all books, records, files, and other information and documents of the lottery, advise the commission and recommend any matters as he or she deems necessary and advisable to improve the operation and administration of the lottery.

SEC. 3. Section 8880.55 of the Government Code is amended to read:

8880.55. (a) No payment by lottery game retailers to the lottery for tickets or shares shall be in cash. All payments for tickets or shares shall be in the form of a check, bank draft, electronic fund transfer, or other recorded financial instrument as determined by the director.

(b) Notwithstanding any other provision of law, the lottery may pay to lottery game retailers, by electronic fund transfer, subject to approval by the Controller's office, any credit balances that may result from lottery activities.

SEC. 4. The Legislature finds and declares that this act furthers the purposes of the California State Lottery Act of 1984.

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 clarify Section 8880.28 of the Government Code, as amended by Chapter 322 of the Statutes of 1993, and to improve lottery services, as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 1219

An act to amend Section 1855.5 of the Insurance Code, relating to insurance.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 1855.5 of the Insurance Code is amended to read:

1855.5. (a) All insurance policy or bond forms, or manuals, including policy writing rules, rating plans, classification codes and descriptions, territory codes and descriptions, and rules that include factors or relativities such as increased limits factors, classification relativities, or similar factors, of an advisory organization shall prior to being used by insurers be submitted in writing to the

commissioner for his or her consideration and approval, together with any information the commissioner may reasonably require. All of those documents shall be available for public inspection at the office of the commissioner. The commissioner shall approve only those policy forms or bonds forms, or manuals, that are found by him or her to contemplate activities and practices that are not unfair, unreasonable, or otherwise inconsistent with the provisions of this code, including Sections 1861.02 and 1861.05.

(b) Upon submission of any policy forms or bond forms, or manuals, the commissioner may review them, and if after a hearing, at which representatives of consumers and other interested parties may participate, upon not less than 10 days' notice to an advisory organization he or she finds that the policy forms or bond forms, or manuals, are unfair or unreasonable, or are otherwise inconsistent with the provisions of this chapter, he or she may issue a written order to the advisory organization specifying in what respect the policy forms, bond forms, or manuals, are unfair or unreasonable or otherwise inconsistent with the provisions of this chapter and disapprove the use of the forms or manuals. Notwithstanding the provisions of this section, if the commissioner fails to act within 90 days of the submission of a proposed policy or bond form, or manual by an advisory organization, the policy or bond form, or manual, shall be deemed approved. For good cause, and after a hearing, at which representatives of consumers and other interested parties may participate, upon not less than 10 days' notice to the advisory organization, the commissioner may revoke approval of any policy form or bond form or manual.

(c) Nothing in this chapter shall be interpreted to allow an advisory organization to set or establish rates or to issue any manual that contains final rates for any insurance coverage, policy endorsement, or bond.

CHAPTER 1220

An act to amend Sections 4450 and 4451 of the Government Code, and to amend Sections 19955.5 and 19956 of the Health and Safety Code, relating to accessibility standards.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 4450 of the Government Code is amended to read:

4450. (a) It is the purpose of this chapter to ensure that all buildings, structures, sidewalks, curbs, and related facilities, constructed in this state by the use of state, county, or municipal

funds, or the funds of any political subdivision of the state shall be accessible to and usable by persons with disabilities. The State Architect shall develop and submit proposed building standards to the California Building Standards Commission for approval and adoption pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of the Health and Safety Code and shall develop other regulations for making buildings, structures, sidewalks, curbs, and related facilities accessible to and usable by persons with disabilities. The regulations and building standards relating to access for persons with disabilities shall be consistent with the standards for buildings and structures which are contained in pertinent provisions of the latest edition of the Uniform Building Code, as adopted by the International Conference of Building Officials, and these regulations and building standards shall contain additional requirements relating to buildings, structures, sidewalks, curbs, and other related facilities as the State Architect determines are necessary to assure access and usability for persons with disabilities. In developing and revising these additional requirements, the State Architect shall consult with the Department of Rehabilitation, the League of California Cities, the County Supervisors Association of California, and at least one private organization representing and comprised of persons with disabilities.

(b) However, in no case shall the State Architect's regulations and building standards prescribe a lesser standard of accessibility or usability than provided by the Accessibility Guidelines prepared by the federal Access Board as adopted by the United States Department of Justice to implement the Americans with Disabilities Act of 1990 (Public Law 101-336).

SEC. 2. Section 4451 of the Government Code is amended to read:

4451. (a) Except as otherwise provided in this section, this chapter shall be limited in its application to all buildings and facilities stated in Section 4450 intended for use by the public, with any reasonable availability to, or usage by, persons with disabilities, including all facilities used for education and instruction, including the University of California, the California State University, and the various community college districts, that are constructed in whole or in part by the use of state, county, or municipal funds, or the funds of any political subdivision of the state.

(b) Buildings, structures, and facilities, occupied 50 percent or more, that are leased, rented, contracted, sublet, or hired for periods exceeding two years by any municipal, county, or state division of government, or special district shall be made accessible to, and usable by, persons with disabilities. Exceptions to this paragraph may be made upon application to, and approval by, the Department of Rehabilitation.

(c) Except as otherwise provided by law, buildings, structures, sidewalks, curbs, and related facilities subject to the provisions of this chapter or Part 5.5 (commencing with Section 19955) of Division 13

of the Health and Safety Code shall conform to the building standards published in the California Building Standards Code relating to access for the persons with disabilities and the other regulations adopted pursuant to Section 4450 that are in effect on the date of an application for a building permit. With respect to buildings, structures, sidewalks, curbs, and related facilities not requiring a building permit, building standards published in the California Building Standards Code relating to access for persons with disabilities and other regulations adopted pursuant to Section 4450, and in effect at the time construction is commenced shall be applicable.

(d) Until building standards are published in the California Building Standards Code and other regulations are developed by the State Architect and adopted by the California Building Standards Commission pursuant to Section 4450, buildings, structures, sidewalks, curbs, and related facilities subject to the provisions of this chapter or Part 5.5 (commencing with Section 19955) of Division 13 of the Health and Safety Code shall meet or exceed the requirements of Title III of Subpart D of the Americans with Disabilities Act of 1990.

(e) This chapter shall apply to temporary or emergency construction as well as permanent buildings.

(f) Administrative authorities, as designated under Section 4453, may grant exceptions from the literal requirements of the building standards published in the California Building Standards Code relating to access for persons with disabilities, or the other regulations adopted pursuant to this section, or permit the use of other methods or materials, but only when it is clearly evident that equivalent facilitation and protection are thereby secured.

SEC. 3. Section 19955.5 of the Health and Safety Code is amended to read:

19955.5. All passenger vehicle service stations, shopping centers, offices of physicians and surgeons, and office buildings constructed in this state with private funds shall adhere to the provisions of Chapter 7 (commencing with Section 4450) of Division 5 of Title 1 of the Government Code. As used in this section, "office building" means a structure wherein commercial activity or service is performed or a profession is practiced, or wherein any combination thereof is performed or practiced in all or the majority of the building or structure.

When sanitary facilities are made available for the public, clients, or employees in these stations, centers, or buildings, they shall be made available for persons with disabilities.

Any new requirements imposed by the amendments to this section by Chapter 931 of the Statutes of 1973 shall only apply to those stations, centers, or office buildings constructed on or after September 30, 1973. Any other new requirements imposed by amendments to this section by Chapter 995 of the Statutes of 1974 shall only apply to those offices or office buildings constructed on or

after January 1, 1975.

SEC. 4. Section 19956 of the Health and Safety Code is amended to read:

19956. All public accommodations constructed in this state shall conform to the provisions of Chapter 7 (commencing with Section 4450) of Division 5 of Title 1 of the Government Code. However, the following types of privately funded multistory buildings do not require accessibility by ramp or elevator above and below the first floor:

(a) Multistoried office buildings, other than the professional office of a health care provider, and passenger vehicle service stations less than three stories high, or less than 3,000 square feet per story.

(b) Any other privately funded multistoried building that is not a shopping center, shopping mall, or the professional office of a health care provider, and that is less than three stories high or less than 3,000 square feet per story if a reasonable portion of all facilities and accommodations normally sought and used by the public in such a building are accessible to and usable by persons with disabilities.

CHAPTER 1221

An act to add Chapter 8 (commencing with Section 1340) to, and to add and repeal Chapter 7 (commencing with Section 1330) of, Division 6 of the Military and Veterans Code, and to add and repeal Section 18517 of the Revenue and Taxation Code, relating to veterans memorials, and making an appropriation therefor.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Chapter 7 (commencing with Section 1330) is added to Division 6 of the Military and Veterans Code, to read:

CHAPTER 7. CALIFORNIA MEXICAN AMERICAN VETERANS' MEMORIAL BEAUTIFICATION AND ENHANCEMENT

1330. (a) There is in state government the California Mexican American Veterans' Memorial Beautification and Enhancement Commission composed of 11 members as follows:

(1) Two members appointed by the Speaker of the Assembly, at least one of whom shall be a Member of the Assembly, and at least one of whom shall be a veteran, as defined in Section 980.

(2) Two members appointed by the Senate Committee on Rules, at least one of whom shall be a Member of the Senate, and at least one of whom shall be a veteran, as defined in Section 980.

(3) Seven members appointed by the Governor, at least two of

whom shall be veterans, as defined in Section 980.

(b) The members shall elect one of their number to serve as chairperson.

1331. Members of the Legislature shall serve on the commission as ex officio members without vote and shall participate in the activities of the commission to the extent that the participation is not incompatible with their legislative duties. Members of the commission shall receive no compensation.

1332. The commission may request staff support and facilities for its activities from the Department of Veterans Affairs, and the department may provide that support and be reimbursed for the cost of this support.

1333. The commission shall be responsible for setting policy consistent with the purposes of this chapter. The staff hired by the commission shall carry out that policy.

1334. (a) The beautification and enhancement of an existing memorial on state grounds is hereby authorized. For the purposes of this act, "state grounds" means that property in the City of Sacramento bounded by "Ninth," "Tenth," "L," and "N" Streets. The actual site for the beautification and enhancement of the memorial shall be the site of the existing memorial and surrounding ground.

(b) Funds for the beautification and enhancement of the memorial shall be provided through private contributions and by designation through a voluntary checkoff on tax returns. The commission may receive contributions for this purpose. However, the commission shall not solicit any funds for construction of the memorial until the Veterans Memorial Commission has completed construction of a memorial to California's veterans pursuant to Chapter 5 (commencing with Section 1310).

1335. With respect to the design and construction of an enhanced memorial, the commission may do all of the following:

(a) Establish a schedule for the design, construction, and dedication of the enhanced memorial.

(b) Implement procedures to solicit designs for beautifying and enhancing the memorial and devise a selection process for the choice of the design.

(c) Select individuals or organizations to provide fundraising services and to construct the enhanced memorial.

(d) Review and monitor the design and construction of the memorial and establish a program for the rededication of the memorial.

(e) Report to the Legislature through the Assembly Committee on Governmental Organization and the Senate Veterans Affairs Committee at least once on the progress of the memorial.

(f) Consult with the Department of General Services to determine parameters for the final size of the memorial.

(g) Consult with and obtain final design and site orientation approval from the Department of General Services.

1336. The design of the enhanced memorial shall be as politically neutral as possible.

1338. The commission shall notify the Governor and the Franchise Tax Board when beautification and enhancement of the memorial pursuant to this chapter is complete. This chapter shall remain in effect only until, and shall be repealed on, January 1 of the year following that notification, unless a later enacted statute, which is enacted before that date, deletes or extends that date.

SEC. 2. Chapter 8 (commencing with Section 1340) is added to Division 6 of the Military and Veterans Code, to read:

CHAPTER 8. CALIFORNIA MEXICAN AMERICAN VETERANS' MEMORIAL BEAUTIFICATION AND ENHANCEMENT ACCOUNT

1340. The California Mexican American Veterans' Memorial Beautification and Enhancement Account is hereby created in the General Fund. All funds received by the California Mexican American Veterans' Memorial Beautification and Enhancement Commission under Chapter 7 (commencing with Section 1330) and under Section 18517 of the Revenue and Taxation Code shall be deposited in the account for the design and construction of the California Mexican American Veterans' Memorial as specified in Section 18517 of the Revenue and Taxation Code.

SEC. 3. Section 18517 is added to the Revenue and Taxation Code, to read:

18517. (a) Any taxpayer may designate on the tax return that a contribution in excess of the tax liability, if any, be made to the California Mexican American Veterans' Memorial Beautification and Enhancement Account in the General Fund established by Section 1340 of the Military and Veterans Code. That designation is to be used as a voluntary checkoff on the tax return only after the Veterans' Memorial Commission has notified the Franchise Tax Board in writing that the Veterans Memorial is completely constructed pursuant to Chapter 5 (commencing with Section 1310). If the Veterans Memorial is completed and the Franchise Tax Board is notified in writing prior to September 1 of any taxable year, then the California Mexican American Veterans' Memorial Beautification and Enhancement Account shall first appear for contribution on the tax return filed for the taxable year beginning on or after January 1 of the year of completion. If the Veterans Memorial is completed and the Franchise Tax Board is notified in writing on or after September 1 of any taxable year, the California Mexican American Veterans' Memorial Beautification and Enhancement Account shall first appear for contribution on the tax return filed for the taxable year beginning on or after January 1 of the following year.

(b) The contributions shall be in full dollar amounts and may be made individually by each signatory on the joint return.

(c) A designation under subdivision (a) shall be made on the initial return for that taxable year, and once made shall be

irrevocable. In the event that payments and credits reported on the return, together with any other credits associated with the taxpayer's account, do not exceed the taxpayer's liability, the return shall be treated as though no designation has been made.

(d) In the event a taxpayer designates a contribution to more than one account or fund listed on the tax return, and the amount available is insufficient to satisfy the total amount designated, the contribution shall be allocated among the designees on a pro rata basis.

(e) The Franchise Tax Board shall revise the forms of the return to include a space labeled the "California Mexican American Veterans' Memorial" to allow for the designation permitted under subdivision (a). The forms shall also include in the instructions information that the contribution may be in the amount of one dollar ($1) or more and that the contribution shall be used to beautify and enhance an existing memorial.

(f) A deduction shall be allowed under Article 6 (commencing with Section 17201) of Chapter 3 for any contribution made pursuant to subdivision (a).

(g) The Franchise Tax Board shall notify the Controller of both the amount of money paid by the taxpayer in excess of his or her tax liability and the amount of refund money that the taxpayer has designated pursuant to this section that is to be transferred to the California Mexican American Veterans' Memorial Beautification and Enhancement Account. The Controller shall transfer from the Personal Income Tax Fund to the California Mexican American Veterans' Memorial Beautification and Enhancement Account an amount not in excess of the amounts designated by individuals pursuant to this section for payment into that account.

(h) Notwithstanding Section 13340 of the Government Code, all funds deposited in the California Mexican American Veterans' Memorial Beautification and Enhancement Account established pursuant to Section 1340 of the Military and Veterans Code are hereby continuously appropriated, without regard to fiscal year, to the California Mexican American Veterans' Memorial Beautification and Enhancement Commission for all of the following purposes:

(1) Reimbursement of all costs incurred by the Franchise Tax Board and the Controller in connection with their duties under this section.

(2) Beautification, and enhancement, of an existing memorial and surrounding grounds at the State Capitol pursuant to Chapter 7 (commencing with Section 1330), and Chapter 8 (commencing with Section 1340) of Division 6 of the Military and Veterans Code.

(i) This section shall remain in effect only until, and shall be repealed on, January 1 of the fifth taxable year following the notification required under subdivision (a), unless a later enacted statute, which is enacted before that date, deletes that date.

(j) Notwithstanding subdivision (i), if, in any calendar year the Franchise Tax Board estimates by September 1 that contributions

described in this article made on returns filed in that calendar year will be less than two hundred fifty thousand dollars ($250,000), then this section is repealed with respect to taxable years beginning on and after January 1 of that calendar year. The Franchise Tax Board shall estimate the annual contribution amount by September 1 of each year using the actual amounts known to be contributed and an estimate of the remaining year's contributions.

SEC. 4. Notwithstanding the repeal of Section 18571 of the Revenue and Taxation Code, any contribution amounts designated pursuant to that section prior to its repeal shall continue to be transferred and disbursed in accordance with that section as it read immediately prior to that repeal.

SEC. 5. The sum of twenty-five thousand dollars ($25,000) is hereby appropriated from the General Fund to the California Mexican American Veterans' Memorial Beautification and Enhancement Commission for deposit in the California Mexican American Veterans' Memorial Beautification and Enhancement Account as a loan for purposes of Chapter 7 (commencing with Section 1330) of Division 6 of the Military and Veterans Code. The commission shall reimburse the amount of this appropriation, plus interest at the same rate of interest as that earned by moneys invested in the Pooled Money Investment Account during the term of the loan, from the first contributions received by the commission under Chapter 7 (commencing with Section 1330) of Division 6 of the Military and Veterans Code.

CHAPTER 1222

An act to amend Sections 17058 and 23610.5 of, and to add Sections 12205 and 12206 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 12205 is added to the Revenue and Taxation Code, to read:

12205. It is the intent of the Legislature that the amount of the state low-income housing tax credit allocated to a project pursuant to Section 12206 shall not exceed an amount in addition to the federal tax credit that is necessary for the financial feasibility of the project and its viability throughout the extended use period.

SEC. 2. Section 12206 is added to the Revenue and Taxation Code, to read:

12206. (a) (1) There shall be allowed as a credit against the "tax" (as defined by Section 12201) a state low-income housing tax

credit in an amount equal to the amount determined in subdivision (c), computed in accordance with Section 42 of the Internal Revenue Code, except as otherwise provided in this section.

(2) "Taxpayer," for purposes of this section, means the sole owner in the case of a C corporation, the partners in the case of a partnership, and the shareholders in the case of an S corporation.

(3) "Housing sponsor," for purposes of this section, means the sole owner in the case of a C corporation, the partnership in the case of a partnership, and the S corporation in the case of an S corporation.

(b) (1) The amount of the credit allocated to any housing sponsor shall be authorized by the California Tax Credit Allocation Committee, or any successor thereof, based on a project's need for the credit for economic feasibility in accordance with the requirements of this section.

(A) The low-income housing project shall be located in California and shall meet either of the following requirements:

(i) The project's housing sponsor shall have been allocated by the California Tax Credit Allocation Committee a credit for federal income tax purposes under Section 42 of the Internal Revenue Code.

(ii) It shall qualify for a credit under Section 42(h) (4) (B) of the Internal Revenue Code.

(B) The California Tax Credit Allocation Committee shall not require fees for the credit under this section in addition to those fees required for applications for the tax credit pursuant to Section 42 of the Internal Revenue Code. The committee may require a fee if the application for the credit under this section is submitted in a calendar year after the year the application is submitted for the federal tax credit.

(2) (A) The California Tax Credit Allocation Committee shall certify to the housing sponsor the amount of tax credit under this section allocated to the housing sponsor for each credit period.

(B) In the case of a partnership or an S corporation, the housing sponsor shall provide a copy of the California Tax Credit Allocation Committee certification to the taxpayer.

(C) The taxpayer shall attach a copy of the certification to any return upon which a tax credit is claimed under this section.

(D) In the case of a failure to attach a copy of the certification for the year to the return in which a tax credit is claimed under this section, no credit under this section shall be allowed for that year until a copy of that certification is provided.

(E) All elections made by the taxpayer pursuant to Section 42 of the Internal Revenue Code shall apply to this section.

(F) No credit shall be allocated under this section to buildings located in a difficult development area or a qualified census tract as defined in Section 42 of the Internal Revenue Code for which the eligible basis of a new building or the rehabilitation expenditure of an existing building is 130 percent of that amount pursuant to Section 42(d) (5) (c) of the Internal Revenue Code, unless the committee reduces the amount of federal credit, with the approval of the

applicant, so that the combined amount of federal and state credit shall not exceed the total credit allowable pursuant to this section and Section 42(b) of the Internal Revenue Code, computed without regard to Section 42(d)(5)(C) of the Internal Revenue Code.

(c) Section 42(b) of the Internal Revenue Code shall be modified as follows:

(1) In the case of any qualified low-income building that receives an allocation after 1989 and is a new building not federally subsidized, the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are not federally subsidized for the taxable year, determined in accordance with the requirements of Section 42(b)(2) of the Internal Revenue Code, in lieu of the percentage prescribed in Section 42(b)(1)(A) of the Internal Revenue Code.

(B) For the fourth year, the difference between 30 percent and the sum of the applicable percentages for the first three years.

(2) In the case of any qualified low-income building that receives an allocation after 1989 and that is a new building that is federally subsidized or that is an existing building that is "at risk of conversion," the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are federally subsidized for the taxable year.

(B) For the fourth year, the difference between 13 percent and the sum of the applicable percentages for the first three years.

(3) For purposes of this section, the term "at risk of conversion," with respect to an existing building means a building that satisfies all of the following criteria:

(A) The building is presently owned by a housing sponsor other than a qualified nonprofit organization.

(B) The building is a federally assisted building for which the low-income use restrictions will terminate or the mortgage on the building is eligible for prepayment under Subtitle 13 of the Emergency Low Income Housing Assistance Act of 1987 or under Section 502(c) of the Housing Act of 1949, anytime in the three calendar years after the year of application to the California Tax Credit Allocation Committee.

(C) The person acquiring the building enters into a regulatory agreement that requires the building to be operated in accordance with the requirements of this section for a period equal to the greater of 55 years or the life of the building.

(D) The building satisfies the requirements of Section 42(e) of the Internal Revenue Code regarding rehabilitation expenditures, except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not apply.

(d) The term "qualified low-income housing project" as defined in Section 42(c)(2) of the Internal Revenue Code is modified by adding the following requirements:

(1) The taxpayer shall be entitled to receive a cash distribution from the operations of the project, after funding required reserves, which, at the election of the taxpayer, is equal to:

(A) An amount not to exceed 8 percent of the lesser of:

(i) The owner equity which shall include the amount of the capital contributions actually paid to the housing sponsor and shall not include any amounts until they are paid on an investor note; or

(ii) Twenty percent of the adjusted basis of the building as of the close of the first income year of the credit period; or

(B) The amount of the cash-flow from those units in the building that are not low-income units. For purposes of computing cash-flow under this subparagraph, operating costs shall be allocated to the low-income units using the "floor space fraction," as defined in Section 42 of the Internal Revenue Code.

(C) Any amount allowed to be distributed under subparagraph (A) that is not available for distribution during the first five years of the compliance period may accumulate and be distributed any time during the first 15 years of the compliance period but not thereafter.

(2) The limitation on return shall apply in the aggregate to the partners if the housing sponsor is a partnership and in the aggregate to the shareholders if the housing sponsor is an S corporation.

(3) The housing sponsor shall apply any cash available for distribution in excess of the amount eligible to be distributed under paragraph (1) to reduce the rent on rent-restricted units or to increase the number of rent-restricted units subject to the tests of Section 42(g)(1) of the Internal Revenue Code.

(e) The provisions of Section 42(f) of the Internal Revenue Code shall be modified as follows:

(1) The term "credit period" as defined in Section 42(f)(1) of the Internal Revenue Code is modified by substituting "four income years" for "10 taxable years."

(2) The special rule for the first taxable year of the credit period under Section 42(f)(2) of the Internal Revenue Code shall not apply to the tax credit under this section.

(3) Section 42(f)(3) of the Internal Revenue Code is modified to read:

If, as of the close of any income year in the compliance period, after the first year of the credit period, the qualified basis of any building exceeds the qualified basis of that building as of the close of the first year of the credit period, the housing sponsor, to the extent of its tax credit allocation, shall be eligible for a credit on the excess in an amount equal to the applicable percentage determined pursuant to subdivision (c) for the four-year period beginning with the later of the income years in which the increase in qualified basis occurs.

(f) The provisions of Section 42(h) of the Internal Revenue Code shall be modified as follows:

(1) Section 42(h)(2) of the Internal Revenue Code shall not be applicable and instead the following provisions shall be applicable:

The total amount for the four-year credit period of the housing

credit dollars allocated in a calendar year to any building shall reduce the aggregate housing credit dollar amount of the California Tax Credit Allocation Committee for the calendar year in which the allocation is made.

(2) Paragraphs (3), (4), (6), (7), and (8) of Section 42(h) of the Internal Revenue Code shall not be applicable.

(g) Notwithstanding subdivision (m), the aggregate housing credit dollar amount that may be allocated annually by the California Tax Credit Allocation Committee pursuant to this section, Section 17058, and Section 23610.5 shall be an amount equal to the sum of the following:

(1) Thirty-five million dollars ($35,000,000).

(2) The unused housing credit ceiling, if any, for the preceding calendar years; and

(3) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph, the amount of housing credit dollar amount returned in the calendar year equals the housing credit dollar amount previously allocated to any project that does not become a qualified low-income housing project within the period required by this section or to any project with respect to which an allocation is canceled by mutual consent of the California Tax Credit Allocation Committee and the allocation recipient.

(h) (1) The term "compliance period" as defined in Section 42(i)(1) of the Internal Revenue Code is modified to mean, with respect to any building, the period of 30-consecutive income years beginning with the first income year of the credit period with respect thereto, subject to the limitation in paragraph (2).

(2) If, after the first 18 years of the compliance period, a qualified low-income housing project is not economically feasible, the housing sponsor shall be entitled to remove one or more low-income units from the set-aside and rent requirements of Section 42(g) of the Internal Revenue Code as is necessary for the project to become economically feasible, provided that once a project is again economically feasible, the housing sponsor designates the next available units as low-income units subject to the set-aside and rent requirements, up to the number of low-income units necessary to arrive at the original applicable fraction, while keeping the project economically feasible.

(3) For purposes of paragraph (2), "economically feasible" means that project revenue equals or exceeds project operating expenses excluding any return on investment.

(4) For purposes of paragraph (3), "operating expenses" means the reasonable expenses necessary to operate and maintain the project in habitable condition, debt service, taxes, and reasonable reserves. For purposes of this paragraph, debt service shall not include that portion of payments of principal and interest attributable to any excess refinanced principal over the outstanding principal of the loan that was refinanced, except to the extent the excess was used for the rehabilitation of the project.

(i) (1) Section 42(j) of the Internal Revenue Code shall not be applicable and the provisions in paragraph (2) shall be substituted in its place.

(2) The requirements of this section shall be set forth in a regulatory agreement between the California Tax Credit Allocation Committee and the housing sponsor, which agreement shall be subordinated, when required, to any lien or encumbrance of any banks or other institutional lenders to the project. The regulatory agreement entered into pursuant to subdivision (f) of Section 50199.14 of the Health and Safety Code, shall apply, providing the agreement includes all of the following provisions:

(A) A term not less than the compliance period.

(B) A requirement that the agreement be filed in the official records of the county in which the qualified low-income housing project is located.

(C) A provision stating which state and local agencies can enforce the regulatory agreement in the event the housing sponsor fails to satisfy any of the requirements of this section.

(D) A provision that the regulatory agreement shall be deemed a contract enforceable by tenants as third-party beneficiaries thereto and which allows individuals, whether prospective, present, or former occupants of the building, who meet the income limitation applicable to the building, the right to enforce the regulatory agreement in any state court.

(E) A provision incorporating the requirements of Section 42 of the Internal Revenue Code as modified by this section.

(F) A requirement that the housing sponsor provide the California Tax Credit Allocation Committee or its designee and the local agency that can enforce the regulatory agreement with advance notice if the housing sponsor intends to reduce the number of low-income units to make a project economically feasible.

(G) A requirement that the housing sponsor notify the California Tax Credit Allocation Committee or its designee and the local agency that can enforce the regulatory agreement if there is a determination by the Internal Revenue Service that the project is not in compliance with Section 42(g) of the Internal Revenue Code.

(H) A requirement that the housing sponsor, as security for the performance of the housing sponsor's obligations under the regulatory agreement, assign the housing sponsor's interest in rents that it receives from the project, provided that until there is a default under the regulatory agreement, the housing sponsor is entitled to collect and retain the rents.

(I) The remedies available in the event of a default under the regulatory agreement that is not cured within a reasonable cure period, include, but are not limited to, allowing any of the parties designated to enforce the regulatory agreement to collect all rents with respect to the project; taking possession of the project and operating the project in accordance with the regulatory agreement until the enforcer determines the housing sponsor is in a position to

operate the project in accordance with the regulatory agreement; applying to any court for specific performance; securing the appointment of a receiver to operate the project; or any other relief as may be appropriate.

(j) (1) The committee shall allocate the housing credit on a regular basis consisting of not less than three periods in each calendar year during which applications may be filed and considered. The committee shall establish application filing deadlines, the maximum percentage of federal and state low-income housing tax credit ceiling which may be allocated by the committee in that period, and the approximate date on which allocations shall be made. If the enactment of federal or state law, the adoption of rules or regulations, or other similar events prevent the use of three allocation periods, the committee may reduce the number of periods and adjust the filing deadlines, maximum percentage of credit allocated, and the allocation dates.

(2) The committee shall adopt a qualified allocation plan, as provided in Section 42(m)(1) of the Internal Revenue Code. In adopting this plan, the committee shall comply with the provisions of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code.

(3) Notwithstanding Section 42(m) of the Internal Revenue Code, the California Tax Credit Allocation Committee shall allocate housing credits in accordance with the qualified allocation plan and regulations, which shall include the following provisions:

(A) All housing sponsors, as defined by paragraph (3) of subdivision (a), shall demonstrate at the time the application is filed with the committee that the project meets the following threshold requirements:

(i) The housing sponsor shall demonstrate there is a need for low-income housing in the community or region for which it is proposed.

(ii) The project's proposed financing, including tax credit proceeds, shall be sufficient to complete the project and shall be adequate to operate the project for the extended use period.

(iii) The project shall have enforceable financing commitments, either construction or permanent financing, for at least 50 percent of the total estimated financing of the project.

(iv) The housing sponsor shall have and maintain control of the site for the project.

(v) The housing sponsor shall demonstrate that the project complies with all applicable local land use and zoning ordinances.

(vi) The housing sponsor shall demonstrate that the project development team has the experience and the financial capacity to ensure project completion and operation for the extended use period.

(vii) The housing sponsor shall demonstrate the amount of tax credit that is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the

extended use period, taking into account operating expenses, a supportable debt service, reserves, funds set aside for rental subsidies, and required equity, for the low-income units, and a development fee that does not exceed a specified percentage of the qualified basis of the project prior to inclusion of the development fee in the qualified basis, as determined by the committee.

(B) The committee shall give a preference to those projects satisfying all of the threshold requirements of subparagraph (A) if:

(i) The project serves the lowest income tenants at rents affordable to those tenants; or

(ii) The project is obligated to serve qualified tenants for the longest period.

(C) In addition to the provisions of subparagraphs (A) and (B), the committee shall use the following criteria in allocating housing credits:

(i) Projects serving large families in which the greatest percentage of total square feet of all residential units is comprised of low-income units with three or more bedrooms.

(ii) Projects providing single room occupancy units serving very low income tenants.

(iii) Existing projects that are "at risk of conversion," as defined by paragraph (4) of subdivision (c).

(iv) Projects for which a public agency provides direct or indirect long-term financial support for at least 15 percent of the total project development costs or projects for which the owner's equity constitutes at least 30 percent of the total project development costs.

(v) Projects that provide tenant amenities not generally available to residents of low-income housing projects.

(vi) Projects located within a "difficult to develop area" or a "qualified census tract" as defined in Section 42(d)(5)(C) of the Internal Revenue Code.

(4) For purposes of allocating credits pursuant to this section, the committee shall not give preference to any project by virtue of the date of submission of its application except to break a tie when two or more of the projects have an equal rating.

(5) Not less than 20 percent of the low-income housing tax credits available annually under this section, Section 17058, and Section 23610.5 shall be set aside for allocation to rural areas as defined in Section 50199.21 of the Health and Safety Code. Any amount of credit set aside for rural areas remaining on or after October 31 of any calendar year shall be available for allocation to any eligible project. No amount of credit set aside for rural areas shall be considered available for any eligible project so long as there are eligible rural applications pending on October 31.

(k) Section 42(*l*) of the Internal Revenue Code shall be modified as follows:

The term "secretary" shall be replaced by the term "California Tax Credit Allocation Committee."

(*l*) In the case where the state 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 has been exhausted.

(m) The aggregate amount of tax credits granted pursuant to this section, Section 17058, and Section 23610.5 shall not exceed thirty-five million dollars ($35,000,000) per year. The California Tax Credit Allocation Committee shall not authorize any credit if the total amount of credits authorized in any year under the Personal Income Tax Law and the Bank and Corporation Tax Law exceeds thirty-five million dollars ($35,000,000).

(n) The provisions of Section 11407(a) of Public Law 101-508, relating to the effective date of the extension of the low-income housing credit, shall apply to calendar years after 1993.

(o) The provisions of Section 11407(c) of Public Law 101-508, relating to election to accelerate credit, shall not apply.

(p) This section shall remain in effect for as long as Section 42 of the Internal Revenue Code, relating to low-income housing credits, remains in effect.

SEC. 3. Section 17058 of the Revenue and Taxation Code is amended to read:

17058. (a) (1) There shall be allowed as a credit against the amount of net tax (as defined in Section 17039) a state low-income housing credit in an amount equal to the amount determined in subdivision (c), computed in accordance with the provisions of Section 42 of the Internal Revenue Code, except as otherwise provided in this section.

(2) "Taxpayer" for purposes of this section means the sole owner in the case of an individual, the partners in the case of a partnership, and the shareholders in the case of an S corporation.

(3) "Housing sponsor" for purposes of this section means the sole owner in the case of an individual, the partnership in the case of a partnership, and the S corporation in the case of an S corporation.

(b) (1) The amount of the credit allocated to any housing sponsor shall be authorized by the California Tax Credit Allocation Committee, or any successor thereof, based on a project's need for the credit for economic feasibility in accordance with the requirements of this section.

(A) The low-income housing project shall be located in California and shall meet either of the following requirements:

(i) The project's housing sponsor shall have been allocated by the California Tax Credit Allocation Committee a credit for federal income tax purposes under Section 42 of the Internal Revenue Code.

(ii) It shall qualify for a credit under Section 42(h)(4)(B) of the Internal Revenue Code.

(B) The California Tax Credit Allocation Committee shall not require fees for the credit under this section in addition to those fees required for applications for the tax credit pursuant to Section 42 of the Internal Revenue Code. The committee may require a fee if the application for the credit under this section is submitted in a calendar

year after the year the application is submitted for the federal tax credit.

(2) (A) The California Tax Credit Allocation Committee shall certify to the housing sponsor the amount of tax credit under this section allocated to the housing sponsor for each credit period.

(B) In the case of a partnership or an S corporation, the housing sponsor shall provide a copy of the California Tax Credit Allocation Committee certification to the taxpayer.

(C) The taxpayer shall attach a copy of the certification to any return upon which a tax credit is claimed under this section.

(D) In the case of a failure to attach a copy of the certification for the year to the return in which a tax credit is claimed under this section, no credit under this section shall be allowed for that year until a copy of that certification is provided.

(E) All elections made by the taxpayer pursuant to Section 42 of the Internal Revenue Code shall apply to this section.

(F) No credit shall be allocated under this section to buildings located in a difficult development area or a qualified census tract as defined in Section 42 of the Internal Revenue Code for which the eligible basis of a new building or the rehabilitation expenditure of an existing building is 130 percent of that amount pursuant to Section 42(d)(5)(C) of the Internal Revenue Code, unless the committee reduces the amount of federal credit, with the approval of the applicant, so that the combined amount of federal and state credit shall not exceed the total credit allowable pursuant to this section and Section 42(b) of the Internal Revenue Code, computed without regard to Section 42(d)(5)(C) of the Internal Revenue Code.

(c) Section 42(b) of the Internal Revenue Code shall be modified as follows:

(1) In the case of any qualified low-income building placed in service by the housing sponsor during 1987, the term "applicable percentage" means 9 percent for each of the first three years and 3 percent for the fourth year for new buildings (whether or not the building is federally subsidized) and for existing buildings.

(2) In the case of any qualified low-income building that receives an allocation after 1989 and is a new building not federally subsidized, the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are not federally subsidized for the taxable year, determined in accordance with the requirements of Section 42(b)(2) of the Internal Revenue Code, in lieu of the percentage prescribed in Section 42(b)(1)(A) of the Internal Revenue Code.

(B) For the fourth year, the difference between 30 percent and the sum of the applicable percentages for the first three years.

(3) In the case of any qualified low-income building that receives an allocation after 1989 and that is a new building that is federally subsidized or that is an existing building that is "at risk of conversion," the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are federally subsidized for the taxable year.

(B) For the fourth year, the difference between 13 percent and the sum of the applicable percentages for the first three years.

(4) For purposes of this section, the term "at risk of conversion," with respect to an existing building means a building that satisfies all of the following criteria:

(A) The building is presently owned by a housing sponsor other than a qualified nonprofit organization.

(B) The building is a federally assisted building for which the low-income use restrictions will terminate or the mortgage on the building is eligible for prepayment under Subtitle 13 of the Emergency Low Income Housing Preservation Act of 1987 or under Section 502(c) of the Housing Act of 1949, anytime in the three calendar years after the year of application to the California Tax Credit Allocation Committee.

(C) The person acquiring the building enters into a regulatory agreement that requires the building to be operated in accordance with the requirements of this section for a period equal to the greater of 55 years or the life of the building.

(D) The building satisfies the requirements of Section 42(e) of the Internal Revenue Code regarding rehabilitation expenditures, except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not apply.

(d) The term "qualified low-income housing project" as defined in Section 42(c)(2) of the Internal Revenue Code is modified by adding the following requirements:

(1) The taxpayer shall be entitled to receive a cash distribution from the operations of the project, after funding required reserves, that, at the election of the taxpayer, is equal to:

(A) An amount not to exceed 8 percent of the lesser of:

(i) The owner equity that shall include the amount of the capital contributions actually paid to the housing sponsor and shall not include any amounts until they are paid on an investor note; or

(ii) Twenty percent of the adjusted basis of the building as of the close of the first taxable year of the credit period; or

(B) The amount of the cash-flow from those units in the building that are not low-income units. For purposes of computing cash-flow under this subparagraph, operating costs shall be allocated to the low-income units using the "floor space fraction," as defined in Section 42 of the Internal Revenue Code.

(C) Any amount allowed to be distributed under subparagraph (A) that is not available for distribution during the first five years of the compliance period may be accumulated and distributed any time during the first 15 years of the compliance period but not thereafter.

(2) The limitation on return shall apply in the aggregate to the partners if the housing sponsor is a partnership and in the aggregate to the shareholders if the housing sponsor is an S corporation.

(3) The housing sponsor shall apply any cash available for distribution in excess of the amount eligible to be distributed under paragraph (1) to reduce the rent on rent-restricted units or to increase the number of rent-restricted units subject to the tests of Section 42(g)(1) of the Internal Revenue Code.

(e) The provisions of Section 42(f) of the Internal Revenue Code shall be modified as follows:

(1) The term "credit period" as defined in Section 42(f)(1) of the Internal Revenue Code is modified by substituting "four taxable years" for "10 taxable years."

(2) The special rule for the first taxable year of the credit period under Section 42(f)(2) of the Internal Revenue Code shall not apply to the tax credit under this section.

(3) Section 42(f)(3) of the Internal Revenue Code is modified to read:

If, as of the close of any taxable year in the compliance period, after the first year of the credit period, the qualified basis of any building exceeds the qualified basis of that building as of the close of the first year of the credit period, the housing sponsor, to the extent of its tax credit allocation, shall be eligible for a credit on the excess in an amount equal to the applicable percentage determined pursuant to subdivision (c) for the four-year period beginning with the taxable year in which the increase in qualified basis occurs.

(f) The provisions of Section 42(h) of the Internal Revenue Code shall be modified as follows:

(1) Section 42(h)(2) of the Internal Revenue Code shall not be applicable and instead the following provisions shall be applicable:

The total amount for the four-year period of the housing credit dollars allocated in a calendar year to any building shall reduce the aggregate housing credit dollar amount of the California Tax Credit Allocation Committee for the calendar year in which the allocation is made.

(2) Paragraphs (3), (4), (6), (7), and (8) of Section 42(h) of the Internal Revenue Code shall not be applicable to this section.

(g) Notwithstanding subdivision (m), the aggregate housing credit dollar amount which may be allocated annually by the California Tax Credit Allocation Committee pursuant to this section, Section 12206, and Section 23610.5 shall be an amount equal to the sum of the following:

(1) Thirty-five million dollars ($35,000,000).

(2) The unused housing credit ceiling, if any, for the preceding calendar years; and

(3) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph, the amount of housing credit dollar amount returned in the calendar year equals the housing credit dollar amount previously allocated to any project that does not become a qualified low-income housing project within the period required by this section or to any project with respect to which an allocation is canceled by mutual consent of the California Tax Credit

Allocation Committee and the allocation recipient.

(h) (1) The term "compliance period" as defined in Section 42(i)(1) of the Internal Revenue Code is modified to mean, with respect to any building, the period of 30 consecutive taxable years beginning with the first taxable year of the credit period with respect thereto, subject to the limitation in paragraph (2).

(2) If, after the first 18 years of the compliance period, a qualified low-income housing project is not economically feasible, the housing sponsor shall be entitled to remove one or more low-income units from the set-aside and rent requirements of Section 42(g) of the Internal Revenue Code as is necessary for the project to become economically feasible, provided that once a project is again economically feasible, the housing sponsor designates the net available units as low-income units subject to the set-aside and rent requirements, up to the number of low-income units necessary to arrive at the original applicable fraction, while keeping the project economically feasible.

(3) For purposes of paragraph (2), "economically feasible" means that project revenue equals or exceeds project operating expenses excluding any return on investment.

(4) For purposes of paragraph (3), "operating expenses" means the reasonable expenses necessary to operate and maintain the project in habitable condition, debt service, taxes, and reasonable reserves. For purposes of this paragraph, debt service shall not include that portion of payments of principal and interest attributable to any excess refinanced principal over the outstanding principal of the loan that was refinanced, except to the extent the excess was used for the rehabilitation of the project.

(i) Section 42(j) of the Internal Revenue Code shall not be applicable and the following requirements of this section shall be set forth in a regulatory agreement between the California Tax Credit Allocation Committee and the housing sponsor, which agreement shall be subordinated, when required, to any lien or encumbrance of any banks or other institutional lenders to the project. The regulatory agreement entered into pursuant to subdivision (f) of Section 50199.14 of the Health and Safety Code shall apply, providing the agreement includes all of the following provisions:

(1) A term not less than the compliance period.

(2) A requirement that the agreement be filed in the official records of the county in which the qualified low-income housing project is located.

(3) A provision stating which state and local agencies can enforce the regulatory agreement in the event the housing sponsor fails to satisfy any of the requirements of this section.

(4) A provision that the regulatory agreement shall be deemed a contract enforceable by tenants as third-party beneficiaries thereto and which allows individuals, whether prospective, present, or former occupants of the building, who meet the income limitation applicable to the building, the right to enforce the regulatory

agreement in any state court.

(5) A provision incorporating the requirements of Section 42 of the Internal Revenue Code as modified by this section.

(6) A requirement that the housing sponsor provide the California Tax Credit Allocation Committee or its designee and the local agency that can enforce the regulatory agreement with advance notice if the housing sponsor intends to reduce the number of low-income units to make a project economically feasible.

(7) A requirement that the housing sponsor notify the California Tax Credit Allocation Committee or its designee and the local agency that can enforce the regulatory agreement if there is a determination by the Internal Revenue Service that the project is not in compliance with Section 42(g) of the Internal Revenue Code.

(8) A requirement that the housing sponsor, as security for the performance of the housing sponsor's obligations under the regulatory agreement, assign the housing sponsor's interest in rents that it receives from the project, provided that until there is a default under the regulatory agreement, the housing sponsor is entitled to collect and retain the rents.

(9) The remedies available in the event of a default under the regulatory agreement that is not cured within a reasonable cure period, include, but are not limited to, allowing any of the parties designated to enforce the regulatory agreement to collect all rents with respect to the project; taking possession of the project and operating the project in accordance with the regulatory agreement until the enforcer determines the housing sponsor is in a position to operate the project in accordance with the regulatory agreement; applying to any court for specific performance; securing the appointment of a receiver to operate the project; or any other relief as may be appropriate.

(j) (1) The committee shall allocate the housing credit on a regular basis consisting of not less than three periods in each calendar year during which applications may be filed and considered. The committee shall establish application filing deadlines, the maximum percentage of federal and state low-income housing tax credit ceiling that may be allocated by the committee in that period, and the approximate date on which allocations shall be made. If the enactment of federal or state law, the adoption of rules or regulations or other similar events prevent the use of three allocation periods, the committee may reduce the number of periods and adjust the filing deadlines, maximum percentage of credit allocated, and the allocation dates.

(2) The committee shall adopt a qualified allocation plan, as provided in Section 42(m)(1) of the Internal Revenue Code. In adopting this plan, the committee shall comply with the provisions of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code.

(3) Notwithstanding Section 42(m) of the Internal Revenue Code, the California Tax Credit Allocation Committee shall allocate

housing credits in accordance with the qualified allocation plan and regulations, which shall include the following provisions:

(A) All housing sponsors, as defined by paragraph (3) of subdivision (a), shall demonstrate at the time the application is filed with the committee that the project meets the following threshold requirements:

(i) The housing sponsor shall demonstrate there is a need for low-income housing in the community or region for which it is proposed.

(ii) The project's proposed financing, including tax credit proceeds, shall be sufficient to complete the project and shall be adequate to operate the project for the extended use period.

(iii) The project shall have enforceable financing commitments, either construction or permanent financing, for at least 50 percent of the total estimated financing of the project.

(iv) The housing sponsor shall have and maintain control of the site for the project.

(v) The housing sponsor shall demonstrate that the project complies with all applicable local land use and zoning ordinances.

(vi) The housing sponsor shall demonstrate that the project development team has the experience and the financial capacity to ensure project completion and operation for the extended use period.

(vii) The housing sponsor shall demonstrate the amount of tax credit that is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the extended use period, taking into account operating expenses, a supportable debt service, reserves, funds set aside for rental subsidies, and required equity, for the low-income units, and a development fee that does not exceed a specified percentage of the qualified basis of the project prior to inclusion of the development fee in the qualified basis, as determined by the committee.

(B) The committee shall give a preference to those projects satisfying all of the threshold requirements of subparagraph (A) if:

(i) The project serves the lowest income tenants at rents affordable to those tenants; or

(ii) The project is obligated to serve qualified tenants for the longest period.

(C) In addition to the provisions of subparagraphs (A) and (B), the committee shall use the following criteria in allocating housing credits:

(i) Projects serving large families in which the greatest percentage of total square feet of all residential units is comprised of low-income units with three or more bedrooms.

(ii) Projects providing single room occupancy units serving very low-income tenants.

(iii) Existing projects that are "at risk of conversion," as defined by paragraph (4) of subdivision (c).

(iv) Projects for which a public agency provides direct or indirect

long-term financial support for at least 15 percent of the total project development costs or projects for which the owner's equity constitutes at least 30 percent of the total project development costs.

(v) Projects that provide tenant amenities not generally available to residents of low-income housing projects.

(vi) Projects located within a "difficult to develop area" or a "qualified census tract" as defined in Section 42(d)(5)(C) of the Internal Revenue Code.

(4) For purposes of allocating credits pursuant to this section, the committee shall not give preference to any project by virtue of the date of submission of its application.

(5) Not less than 20 percent of the low-income housing tax credits available annually under this section, Section 12206, and Section 23610.5 shall be set aside for allocation to rural areas as defined in Section 50199.21 of the Health and Safety Code. Any amount of credit set aside for rural areas remaining on or after October 31 of any calendar year shall be available for allocation to any eligible project. No amount of credit set aside for rural areas shall be considered available for any eligible project so long as there are eligible rural applications pending on October 31.

(k) Section 42(*l*) of the Internal Revenue Code shall be modified as follows:

The term "secretary" shall be replaced by the term "California Tax Credit Allocation Committee."

(*l*) In the case where the credit allowed under this section exceeds the net tax, the excess credit may be carried over to reduce the net tax in the following year, and succeeding taxable years, if necessary, until the credit has been exhausted.

(m) The aggregate amount of tax credits granted pursuant to this section, Section 12206, and Section 23610.5 shall not exceed thirty-five million dollars ($35,000,000) per year. The California Tax Credit Allocation Committee shall not authorize any credit if the total amount of credits authorized in any year under the Personal Income Tax Law and the Bank and Corporation Tax Law exceeds thirty-five million dollars ($35,000,000).

The aggregate amount of credit granted pursuant to this section and Section 23610.5 in 1989 may exceed thirty-five million dollars ($35,000,000) by an amount equal to the unallocated credit from 1987 and 1988.

(n) A project that received an allocation of a 1989 federal housing credit dollar amount shall be eligible to receive an allocation of a 1990 state housing credit dollar amount, subject to all of the following conditions:

(1) The project was not placed in service prior to 1990.

(2) To the extent the amendments made to this section by the Statutes of 1990 conflict with any provisions existing in this section prior to those amendments, the prior provisions of law shall prevail.

(3) Notwithstanding paragraph (2), a project applying for an allocation under this subdivision shall be subject to the requirements

of paragraph (3) of subdivision (j).

(o) The credit period with respect to an allocation of credit in 1989 by the California Tax Credit Allocation Committee of which any amount is attributable to unallocated credit from 1987 or 1988 shall not begin until after December 31, 1989.

(p) The provisions of Section 11407(a) of Public Law 101-508, relating to the effective date of the extension of the low-income housing credit, shall apply to calendar years after 1989.

(q) The provisions of Section 11407(c) of Public Law 101-508, relating to election to accelerate credit, shall not apply.

(r) (1) This section shall remain in effect only until December 1, 1990, and as of that date is repealed. However, any unused credit may continue to be carried forward, as provided in subdivision (*l*), until the credit has been exhausted.

(2) Notwithstanding paragraph (1), this section shall remain in effect on and after December 1, 1990, for as long as Section 42 of the Internal Revenue Code pertaining to low-income housing credits remains in effect.

(s) The amendments to this section by the act adding this subdivision shall apply only to taxable years beginning on or after January 1, 1993.

SEC. 4. Section 23610.5 of the Revenue and Taxation Code is amended to read:

23610.5. (a) (1) There shall be allowed as a credit against the "tax" (as defined by Section 23036) a state low-income housing tax credit in an amount equal to the amount determined in subdivision (c), computed in accordance with Section 42 of the Internal Revenue Code of 1986, except as otherwise provided in this section.

(2) "Taxpayer," for purposes of this section, means the sole owner in the case of a C corporation, the partners in the case of a partnership, and the shareholders in the case of an S corporation.

(3) "Housing sponsor," for purposes of this section, means the sole owner in the case of a C corporation, the partnership in the case of a partnership, and the S corporation in the case of an S corporation.

(b) (1) The amount of the credit allocated to any housing sponsor shall be authorized by the California Tax Credit Allocation Committee, or any successor thereof, based on a project's need for the credit for economic feasibility in accordance with the requirements of this section.

(A) The low-income housing project shall be located in California and shall meet either of the following requirements:

(i) The project's housing sponsor shall have been allocated by the California Tax Credit Allocation Committee a credit for federal income tax purposes under Section 42 of the Internal Revenue Code.

(ii) It shall qualify for a credit under Section 42(h)(4)(B) of the Internal Revenue Code.

(B) The California Tax Credit Allocation Committee shall not require fees for the credit under this section in addition to those fees required for applications for the tax credit pursuant to Section 42 of

the Internal Revenue Code. The committee may require a fee if the application for the credit under this section is submitted in a calendar year after the year the application is submitted for the federal tax credit.

(2) (A) The California Tax Credit Allocation Committee shall certify to the housing sponsor the amount of tax credit under this section allocated to the housing sponsor for each credit period.

(B) In the case of a partnership or an S corporation, the housing sponsor shall provide a copy of the California Tax Credit Allocation Committee certification to the taxpayer.

(C) The taxpayer shall attach a copy of the certification to any return upon which a tax credit is claimed under this section.

(D) In the case of a failure to attach a copy of the certification for the year to the return in which a tax credit is claimed under this section, no credit under this section shall be allowed for that year until a copy of that certification is provided.

(E) All elections made by the taxpayer pursuant to Section 42 of the Internal Revenue Code shall apply to this section.

(F) No credit shall be allocated under this section to buildings located in a difficult development area or a qualified census tract as defined in Section 42 of the Internal Revenue Code for which the eligible basis of a new building or the rehabilitation expenditure of an existing building is 130 percent of that amount pursuant to Section 42(d)(5)(C) of the Internal Revenue Code, unless the committee reduces the amount of federal credit, with the approval of the applicant, so that the combined amount of federal and state credit shall not exceed the total credit allowable pursuant to this section and Section 42(b) of the Internal Revenue Code, computed without regard to Section 42(d)(5)(C) of the Internal Revenue Code.

(c) Section 42(b) of the Internal Revenue Code shall be modified as follows:

(1) In the case of any qualified low-income building placed in service by the housing sponsor during 1987, the term "applicable percentage" means 9 percent for each of the first three years and 3 percent for the fourth year for new buildings (whether or not the building is federally subsidized) and for existing buildings.

(2) In the case of any qualified low-income building that receives an allocation after 1989 and is a new building not federally subsidized, the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are not federally subsidized for the taxable year, determined in accordance with the requirements of Section 42(b)(2) of the Internal Revenue Code, in lieu of the percentage prescribed in Section 42(b)(1)(A).

(B) For the fourth year, the difference between 30 percent and the sum of the applicable percentages for the first three years.

(3) In the case of any qualified low-income building that receives an allocation after 1989 and that is a new building that is federally subsidized or that is an existing building that is "at risk of

conversion," the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are federally subsidized for the taxable year.

(B) For the fourth year, the difference between 13 percent and the sum of the applicable percentages for the first three years.

(4) For purposes of this section, the term "at risk of conversion," with respect to an existing building means a building that satisfies all of the following criteria:

(A) The building is presently owned by a housing sponsor other than a qualified nonprofit organization.

(B) The building is a federally assisted building for that the low-income use restrictions will terminate or the mortgage on the building is eligible for prepayment under Subtitle 13 of the Emergency Low Income Housing Assistance Act of 1987 or under Section 502(c) of the Housing Act of 1949, anytime in the three calendar years after the year of application to the California Tax Credit Allocation Committee.

(C) The person acquiring the building enters into a regulatory agreement that requires the building to be operated in accordance with the requirements of this section for a period equal to the greater of 55 years or the life of the building.

(D) The building satisfies the requirements of Section 42(e) of the Internal Revenue Code regarding rehabilitation expenditures, except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not apply.

(d) The term "qualified low-income housing project" as defined in Section 42(c)(2) of the Internal Revenue Code is modified by adding the following requirements:

(1) The taxpayer shall be entitled to receive a cash distribution from the operations of the project, after funding required reserves, which, at the election of the taxpayer, is equal to:

(A) An amount not to exceed 8 percent of the lesser of:

(i) The owner equity that shall include the amount of the capital contributions actually paid to the housing sponsor and shall not include any amounts until they are paid on an investor note; or

(ii) Twenty percent of the adjusted basis of the building as of the close of the first income year of the credit period; or

(B) The amount of the cash-flow from those units in the building that are not low-income units. For purposes of computing cash-flow under this subparagraph, operating costs shall be allocated to the low-income units using the "floor space fraction," as defined in Section 42 of the Internal Revenue Code.

(C) Any amount allowed to be distributed under subparagraph (A) that is not available for distribution during the first five years of the compliance period may accumulate and be distributed any time during the first 15 years of the compliance period but not thereafter.

(2) The limitation on return shall apply in the aggregate to the partners if the housing sponsor is a partnership and in the aggregate

to the shareholders if the housing sponsor is an S corporation.

(3) The housing sponsor shall apply any cash available for distribution in excess of the amount eligible to be distributed under paragraph (1) to reduce the rent on rent-restricted units or to increase the number of rent-restricted units subject to the tests of Section 42(g)(1) of the Internal Revenue Code.

(e) The provisions of Section 42(f) of the Internal Revenue Code shall be modified as follows:

(1) The term "credit period" as defined in Section 42(f)(1) of the Internal Revenue Code is modified by substituting "four income years" for "10 taxable years."

(2) The special rule for the first taxable year of the credit period under Section 42(f)(2) of the Internal Revenue Code shall not apply to the tax credit under this section.

(3) Section 42(f)(3) of the Internal Revenue Code is modified to read:

If, as of the close of any income year in the compliance period, after the first year of the credit period, the qualified basis of any building exceeds the qualified basis of that building as of the close of the first year of the credit period, the housing sponsor, to the extent of its tax credit allocation, shall be eligible for a credit on the excess in an amount equal to the applicable percentage determined pursuant to subdivision (c) for the four-year period beginning with the later of the income years in which the increase in qualified basis occurs.

(f) The provisions of Section 42(h) of the Internal Revenue Code shall be modified as follows:

(1) Section 42(h)(2) of the Internal Revenue Code shall not be applicable and instead the following provisions shall be applicable:

The total amount for the four-year credit period of the housing credit dollars allocated in a calendar year to any building shall reduce the aggregate housing credit dollar amount of the California Tax Credit Allocation Committee for the calendar year in which the allocation is made.

(2) Paragraphs (3), (4), (6), (7), and (8) of Section 42(h) of the Internal Revenue Code shall not be applicable.

(g) Notwithstanding subdivision (m), the aggregate housing credit dollar amount which may be allocated annually by the California Tax Credit Allocation Committee pursuant to this section, Section 12206, and Section 17058 shall be an amount equal to the sum of the following:

(1) Thirty-five million dollars ($35,000,000).

(2) The unused housing credit ceiling, if any, for the preceding calendar years; and

(3) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph, the amount of housing credit dollar amount returned in the calendar year equals the housing credit dollar amount previously allocated to any project that does not become a qualified low-income housing project within the period required by this section or to any project with respect to which an

allocation is canceled by mutual consent of the California Tax Credit Allocation Committee and the allocation recipient.

(h) (1) The term "compliance period" as defined in Section 42(i)(1) of the Internal Revenue Code is modified to mean, with respect to any building, the period of 30-consecutive income years beginning with the first income year of the credit period with respect thereto, subject to the limitation in paragraph (2).

(2) If, after the first 18 years of the compliance period, a qualified low-income housing project is not economically feasible, the housing sponsor shall be entitled to remove one or more low-income units from the set-aside and rent requirements of Section 42(g) of the Internal Revenue Code as is necessary for the project to become economically feasible, provided that once a project is again economically feasible, the housing sponsor designates the next available units as low-income units subject to the set-aside and rent requirements, up to the number of low-income units necessary to arrive at the original applicable fraction, while keeping the project economically feasible.

(3) For purposes of paragraph (2), "economically feasible" means that project revenue equals or exceeds project operating expenses excluding any return on investment.

(4) For purposes of paragraph (3), "operating expenses" means the reasonable expenses necessary to operate and maintain the project in habitable condition, debt service, taxes, and reasonable reserves. For purposes of this paragraph, debt service shall not include that portion of payments of principal and interest attributable to any excess refinanced principal over the outstanding principal of the loan that was refinanced, except to the extent the excess was used for the rehabilitation of the project.

(i) Section 42(j) of the Internal Revenue Code shall not be applicable and the following shall be substituted in its place:

(1) The requirements of this section shall be set forth in a regulatory agreement between the California Tax Credit Allocation Committee and the housing sponsor, which agreement shall be subordinated, when required, to any lien or encumbrance of any banks or other institutional lenders to the project. The regulatory agreement entered into pursuant to subdivision (f) of Section 50199.14 of the Health and Safety Code, shall apply, providing the agreement includes all of the following provisions:

(A) A term not less than the compliance period.

(B) A requirement that the agreement be filed in the official records of the county in which the qualified low-income housing project is located.

(C) A provision stating which state and local agencies can enforce the regulatory agreement in the event the housing sponsor fails to satisfy any of the requirements of this section.

(D) A provision that the regulatory agreement shall be deemed a contract enforceable by tenants as third-party beneficiaries thereto and which allows individuals, whether prospective, present, or

former occupants of the building, who meet the income limitation applicable to the building, the right to enforce the regulatory agreement in any state court.

(E) A provision incorporating the requirements of Section 42 of the Internal Revenue Code as modified by this section.

(F) A requirement that the housing sponsor provide the California Tax Credit Allocation Committee or its designee and the local agency that can enforce the regulatory agreement with advance notice if the housing sponsor intends to reduce the number of low-income units to make a project economically feasible.

(G) A requirement that the housing sponsor notify the California Tax Credit Allocation Committee or its designee and the local agency that can enforce the regulatory agreement if there is a determination by the Internal Revenue Service that the project is not in compliance with Section 42(g) of the Internal Revenue Code.

(H) A requirement that the housing sponsor, as security for the performance of the housing sponsor's obligations under the regulatory agreement, assign the housing sponsor's interest in rents that it receives from the project, provided that until there is a default under the regulatory agreement, the housing sponsor is entitled to collect and retain the rents.

(I) The remedies available in the event of a default under the regulatory agreement that is not cured within a reasonable cure period, include, but are not limited to, allowing any of the parties designated to enforce the regulatory agreement to collect all rents with respect to the project; taking possession of the project and operating the project in accordance with the regulatory agreement until the enforcer determines the housing sponsor is in a position to operate the project in accordance with the regulatory agreement; applying to any court for specific performance; securing the appointment of a receiver to operate the project; or any other relief as may be appropriate.

(j) (1) The committee shall allocate the housing credit on a regular basis consisting of not less than three periods in each calendar year during which applications may be filed and considered. The committee shall establish application filing deadlines, the maximum percentage of federal and state low-income housing tax credit ceiling which may be allocated by the committee in that period, and the approximate date on which allocations shall be made. If the enactment of federal or state law, the adoption of rules or regulations, or other similar events prevent the use of three allocation periods, the committee may reduce the number of periods and adjust the filing deadlines, maximum percentage of credit allocated, and the allocation dates.

(2) The committee shall adopt a qualified allocation plan, as provided in Section 42(m)(1) of the Internal Revenue Code. In adopting this plan, the committee shall comply with the provisions of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code.

(3) Notwithstanding Section 42(m) of the Internal Revenue Code, the California Tax Credit Allocation Committee shall allocate housing credits in accordance with the qualified allocation plan and regulations, which shall include the following provisions:

(A) All housing sponsors, as defined by paragraph (3) of subdivision (a), shall demonstrate at the time the application is filed with the committee that the project meets the following threshold requirements:

(i) The housing sponsor shall demonstrate there is a need for low-income housing in the community or region for which it is proposed.

(ii) The project's proposed financing, including tax credit proceeds, shall be sufficient to complete the project and shall be adequate to operate the project for the extended use period.

(iii) The project shall have enforceable financing commitments, either construction or permanent financing, for at least 50 percent of the total estimated financing of the project.

(iv) The housing sponsor shall have and maintain control of the site for the project.

(v) The housing sponsor shall demonstrate that the project complies with all applicable local land use and zoning ordinances.

(vi) The housing sponsor shall demonstrate that the project development team has the experience and the financial capacity to ensure project completion and operation for the extended use period.

(vii) The housing sponsor shall demonstrate the amount of tax credit that is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the extended use period, taking into account operating expenses, a supportable debt service, reserves, funds set aside for rental subsidies, and required equity, for the low-income units, and a development fee that does not exceed a specified percentage of the qualified basis of the project prior to inclusion of the development fee in the qualified basis, as determined by the committee.

(B) The committee shall give a preference to those projects satisfying all of the threshold requirements of subparagraph (A) if:

(i) The project serves the lowest income tenants at rents affordable to those tenants; or

(ii) The project is obligated to serve qualified tenants for the longest period.

(C) In addition to the provisions of subparagraphs (A) and (B), the committee shall use the following criteria in allocating housing credits:

(i) Projects serving large families in which the greatest percentage of total square feet of all residential units is comprised of low-income units with three or more bedrooms.

(ii) Projects providing single room occupancy units serving very low income tenants.

(iii) Existing projects that are "at risk of conversion," as defined

by paragraph (4) of subdivision (c).

(iv) Projects for which a public agency provides direct or indirect long-term financial support for at least 15 percent of the total project development costs or projects for which the owner's equity constitutes at least 30 percent of the total project development costs.

(v) Projects that provide tenant amenities not generally available to residents of low-income housing projects.

(vi) Projects located within a "difficult to develop area" or a "qualified census tract" as defined in Section 42(d)(5)(C) of the Internal Revenue Code.

(4) For purposes of allocating credits pursuant to this section, the committee shall not give preference to any project by virtue of the date of submission of its application except to break a tie when two or more of the projects have an equal rating.

(5) Not less than 20 percent of the low-income housing tax credits available annually under this section, Section 12206, and Section 17058 shall be set aside for allocation to rural areas as defined in Section 50199.21 of the Health and Safety Code. Any amount of credit set aside for rural areas remaining on or after October 31 of any calendar year shall be available for allocation to any eligible project. No amount of credit set aside for rural areas shall be considered available for any eligible project so long as there are eligible rural applications pending on October 31.

(k) Section 42(*l*) of the Internal Revenue Code shall be modified as follows:

The term "secretary" shall be replaced by the term "California Tax Credit Allocation Committee."

(*l*) In the case where the state 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 has been exhausted.

(m) The aggregate amount of tax credits granted pursuant to this section, Section 12206, and Section 17058 shall not exceed thirty-five million dollars ($35,000,000) per year. The California Tax Credit Allocation Committee shall not authorize any credit if the total amount of credits authorized in any year under the Personal Income Tax Law and the Bank and Corporation Tax Law exceeds thirty-five million dollars ($35,000,000).

The aggregate amount of credit granted pursuant to this section and Section 17058 in 1989 may exceed thirty-five million dollars ($35,000,000) by an amount equal to the unallocated credit from 1987 and 1988.

(n) A project that received an allocation of a 1989 federal housing credit dollar amount shall be eligible to receive an allocation of a 1990 state housing credit dollar amount, subject to all of the following conditions:

(1) The project was not placed in service prior to 1990.

(2) To the extent the amendments made to this section by the Statutes of 1990 conflict with any provisions existing in this section

prior to those amendments, the prior provisions of law shall prevail.

(3) Notwithstanding paragraph (2), a project applying for an allocation under this subdivision shall be subject to the requirements of paragraph (3) of subdivision (j).

(o) The credit period with respect to an allocation of credit in 1989 by the California Tax Credit Allocation Committee of which any amount is attributable to unallocated credit from 1987 or 1988 shall not begin until after December 31, 1989.

(p) The provisions of Section 11407(a) of Public Law 101-508, relating to the effective date of the extension of the low-income housing credit, shall apply to calendar years after 1989.

(q) The provisions of Section 11407(c) of Public Law 101-508, relating to election to accelerate credit, shall not apply.

(r) (1) A bank or corporation may elect to assign any portion of any credit allowed under this section to one or more affiliated banks or corporations for each income year in which the credit is allowed. For purposes of this subdivision, "affiliated bank or corporation" has the meaning provided in subdivision (b) of Section 25110, as of the last date of the income year in which the credit is allowed, except that "100 percent" is substituted for "more than 50 percent" wherever it appears in the section.

(2) The election provided in paragraph (1):

(A) May be based on any method selected by the corporation that originally receives the credit.

(B) Shall be irrevocable for the income year the credit is allowed, once made.

(C) May be changed for any subsequent year if the election to make the assignment is expressly shown on each of the returns of the affiliated banks or corporations that assign and receive the credits.

(s) (1) This section shall remain in effect only until December 1, 1990, and as of that date is repealed. However, any unused credit may continue to be carried forward, as provided in subdivision (*l*), until the credit has been exhausted.

(2) Notwithstanding paragraph (1), this section shall remain in effect on or after December 1, 1990, for as long as Section 42 of the Internal Revenue Code, pertaining to low-income housing credits, remains in effect.

(t) The amendments to this section by the act enacting this subdivision shall apply only to income years beginning on or after January 1, 1993.

SEC. 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1223

An act to add and repeal Article 6.9 (commencing with Section 18518) of Chapter 17 of Part 10 of Division 2 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Article 6.9 (commencing with Section 18518) is added to Chapter 17 of Part 10 of Division 2 of the Revenue and Taxation Code, to read:

Article 6.9. Designations to the California Firefighters' Memorial Fund

18518. (a) Any taxpayer may designate on the tax return that a contribution in excess of the tax liability, if any, be made to the California Firefighters' Memorial Fund, which is established by Section 18518.2. That designation is to be used as a voluntary checkoff on the tax return.

(b) The contributions shall be in full dollar amounts and may be made individually by each signatory on the joint return.

(c) A designation shall be made for any taxable year on the initial return for that taxable year, and once made shall be irrevocable. In the event that payments and credits reported on the return, together with any other credits associated with the taxpayer's account, do not exceed the taxpayer's liability, the return shall be treated as though no designation has been made. In the event that no designee is specified, the contribution shall be transferred to the General Fund, after reimbursement of the direct actual costs of the Franchise Tax Board for the collection and the administration of funds under this article.

(d) In the event a taxpayer designates a contribution to more than one account or fund listed on the tax return, and the amount available for designation is insufficient to satisfy the total amount designated, the contribution shall be allocated among the designees on a pro rata basis.

(e) The Franchise Tax Board shall revise the forms of the return to include a space labeled the "California Firefighters' Memorial Fund" to allow for the designation permitted. The forms shall also include in the instructions information that the contribution may be in the amount of one dollar ($1) or more and that the contribution shall be used to construct a memorial to California firefighters on the grounds of the State Capitol.

(f) A deduction shall be allowed under Article 6 (commencing with Section 17201) of Chapter 3 for any contribution made pursuant

to subdivision (a).

18518.2. There is in the State Treasury the California Firefighters' Memorial Fund to receive contributions made pursuant to Section 18518. The Franchise Tax Board shall notify the Controller of both the amount of money paid by taxpayers in excess of their tax liability and the amount of refund money which taxpayers have designated pursuant to Section 18518 to be transferred to the California Firefighters' Memorial Fund. The Controller shall transfer from the Personal Income Tax Fund to the California Firefighters' Memorial Fund an amount not in excess of the sum of the amounts designated by individuals pursuant to Section 18518 for payment into that fund. It is the intent of the Legislature that the 1993 tax return include a space for the California Firefighters' Memorial Fund.

18518.4. All money transferred to the California Firefighters' Memorial Fund, upon appropriation by the Legislature, shall be allocated as follows:

(a) To the Franchise Tax Board and the Controller for reimbursement of all costs incurred by the Franchise Tax Board and the Controller in connection with their duties under this article.

(b) To the California Fire Foundation for the construction of a memorial to California firefighters on the grounds of the State Capitol as provided by Section 13081 of the Health and Safety Code.

18518.5. (a) This article shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1999, deletes that date.

(b) If, in any calendar year the Franchise Tax Board estimates by September 1 that contributions described in this article made on returns filed in that calendar year will be less than two hundred fifty thousand dollars ($250,000), or the adjusted amount specified in subdivision (c), as may be applicable, then this article is repealed with respect to taxable years beginning on and after January 1 of that calendar year. The Franchise Tax Board shall estimate the annual contribution amount by September 1 of each year using the actual amounts known to be contributed and an estimate of the remaining year's contributions.

(c) For each calendar year, beginning with calendar year 1994, the Franchise Tax Board shall adjust, on or before September 1 of that calendar year, the minimum estimated contribution amount specified in subdivision (b) as follows:

(1) The minimum estimated contribution amount for the calendar year shall be an amount equal to the product of the minimum estimated contribution amount for the prior September 1 multiplied by the inflation factor adjustment as specified in paragraph (2) of subdivision (h) of Section 17041, rounded off to the nearest dollar.

(2) The inflation factor adjustment used for the calendar year shall be based on the figures for the percentage change in the California Consumer Price Index received on or before August 1 of the calendar year pursuant to paragraph (1) of subdivision (h) of

Section 17041.

(d) Notwithstanding the repeal of this article, any contribution amounts designated pursuant to this article prior to its repeal shall continue to be transferred and disbursed in accordance with this article as in effect immediately prior to that repeal.

CHAPTER 1224

An act to add Article 1.8 (commencing with Section 26639) to Chapter 2 of Part 3 of Division 2 of Title 3 of the Government Code, relating to county officers.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Article 1.8 (commencing with Section 26639) is added to Chapter 2 of Part 3 of Division 2 of Title 3 of the Government Code, to read:

Article 1.8. Sheriff-Marshal Consolidation

26639. (a) Notwithstanding any other provision of law, the Board of Supervisors of Los Angeles County may, no later than October 1, 1993, commence public hearings regarding the consolidation of court-related services provided by the marshal and sheriff within the county. Within 30 days of the commencement of public hearings as authorized by this section, the board shall make a final determination as to the most cost-effective and most efficient manner of consolidation.

(b) Concurrently, an election may be conducted among all of the judges of the superior and municipal courts of that county to provide an advisory recommendation to the board of supervisors as to the preferred agency, either the marshal or the sheriff, under which court-related services and the service of civil and criminal process may be consolidated. The outcome shall be determined by a simple majority of votes cast. The vote of the judges shall then be forwarded to the board of supervisors prior to the close of the public hearing, and the board of supervisors shall take into advisement the recommendation of the judges provided by the election report.

26639.1. The consolidation shall occur pursuant to the board's determination, and shall be concluded no later than July 1, 1994.

26639.2. The courtroom assignment of bailiffs after consolidation pursuant to this article shall be determined by a three-member committee comprised of the presiding judge of the superior court; the Chairperson of the Municipal Court Judges' Association and the bailiff's management representative; or their designees. Any new

bailiff assignments shall be made only after consultation with the affected judge or commissioner in whose courtroom a new assignment is planned, the bailiff's management representative, and with the bargaining unit of the bailiff employee, if the employee is represented.

It is the intent of the Legislature, in enacting this section, to ensure that courtroom assignments are made in a manner which best assures that the interests of the affected judge or commissioner and bailiff are protected.

26639.3. (a) Notwithstanding any other provision of law, the marshal, sheriff, and all personnel of the marshal's office or personnel of the sheriff's office affected by a consolidation of court-related services and the service of civil and criminal process under this article shall become employees of that consolidated office at their existing or equivalent classifications, salaries, and benefits, and except as may be necessary for the operation of the agency under which court-related services and the service of civil and criminal process are consolidated, shall not be involuntarily transferred out of the consolidated office for a period of five years following the consolidation.

(b) Permanent employees of the marshal's office or sheriff's office on the effective date of consolidation under this article shall be deemed qualified, and no other qualifications shall be required for employment or retention. Probationary employees of the marshal's office or the sheriff's office on the effective date of a consolidation under this article shall retain their probationary status and rights, and shall not be deemed to have transferred so as to require serving a new probationary period.

(c) All county service or service by employees of the marshal's office or the sheriff's office on the effective date of a consolidation under this article shall be counted toward seniority in the consolidated office, and all time spent in the same, equivalent, or higher classification shall be counted toward classification seniority.

(d) No employee of the marshal's office or the sheriff's office on the effective date of a consolidation under this article shall lose peace officer status, be demoted, or otherwise adversely affected as a result of the consolidation.

CHAPTER 1225

An act to amend Section 33020 of, and to add and repeal Article 10.5 (commencing with Section 33427) to Chapter 4 of Part 1 of Division 24 of, the Health and Safety Code, relating to redevelopment.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 33020 of the Health and Safety Code, as amended by Chapter 68 of the Statutes of 1993, is amended to read:

33020. (a) "Redevelopment" means the planning, development, replanning, redesign, clearance, reconstruction, or rehabilitation, or any combination of these, of all or part of a survey area, and the provision of those residential, commercial, industrial, public, or other structures or spaces as may be appropriate or necessary in the interest of the general welfare, including recreational and other facilities incidental or appurtenant to them and payments to school and community college districts in the 1992–93, 1993–94, and 1994–95 fiscal years as provided in Sections 33681 and 33681.5.

(b) "Redevelopment" means, for the purpose of providing authority pursuant to Section 33427, the provision of loan guarantees to a small business and the financing of a private nonprofit corporation-sponsored small business incubator or a public small business incubator.

SEC. 2. Article 10.5 (commencing with Section 33427) is added to Chapter 4 of Part 1 of Division 24 of the Health and Safety Code, to read:

Article 10.5. Small Business Development

33427. (a) In addition to any other authority granted under this part, an agency may, within a project area, for the purposes of redevelopment, assist public agencies or private nonprofit corporations to establish and maintain a small business incubator.

(b) In addition to any other authority granted under this part, an agency may, for the purposes of redevelopment, provide loan guarantees for small businesses located within a project area.

(c) For the purposes of this section, "small business" shall have the same meaning as defined in Section 11342 of the Government Code.

(d) This section shall apply only to a project area that is located within the City of Healdsburg, the City of Long Beach, the City of Los Angeles, the City of Oakland, or the City of Signal Hill. Any agency operating within one of those cities which uses the authority granted by this section shall separately identify those actions in the annual report to its legislative body prepared pursuant to Section

33080.1.

(e) No agency may amend a redevelopment plan to increase the tax increment revenue limit pursuant to Section 33333.2 or 33333.4 for the purpose of implementing this section.

33427.1. This article shall remain in effect only until July 1, 1999, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1999, deletes or extends that date. However, loan guarantees made pursuant to this article shall remain in effect for the duration of the loan guarantee as if this article were still in effect.

CHAPTER 1226

An act amend Sections 212 and 3511 of, and to add Chapter 2.7 (commencing with Section 4120) to Division 2 of, the Public Utilities Code, relating to public utilities, and making an appropriation therefor.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. The Legislature finds and declares that:

(a) Consumers in California benefit from competition in the provision of small package delivery service, between points within California and between points inside and outside of California.

(b) Small package delivery service is provided by a number of companies operating in both interstate and intrastate commerce, using both trucks and aircraft in intermodal configurations.

(c) The decision of the United States Court of Appeals for the Ninth Circuit in Public Utilities Commission v. Federal Express Corp. (1991), 936 F.2d 1075 has seriously compromised the ability of the State of California to ensure the safety of the operations of providers of intermodal small package service organized as air carriers, by holding that state regulation of those carriers is preempted by federal law.

(d) The decision of the United States Court of Appeals for the Ninth Circuit in Public Utilities Commission v. Federal Express Corp., (1991), 936 F.2d 1075 has created a significant competitive imbalance favoring certain providers of intermodal small package service organized as air carriers by holding that state regulation of those carriers is preempted by federal law, while preserving state regulation of other intermodal carriers.

(e) Maintaining inconsistent safety and regulatory standards for entities providing comparable and competitive services may deny California consumers the full benefits of competition, and may expose the public to unsafe or inadequate operations and financial

responsibility.

(f) The creation of a consistent approach to ensuring safe operation of vehicles on the public highways of California and financial responsibility for all providers of intermodal small package delivery service is in the public interest.

SEC. 2. Section 212 of the Public Utilities Code is amended to read:

212. "Common carrier" shall not include:

(a) Any corporation or person owning, controlling, operating, or managing any vessel, by reason of the furnishing of water transportation service between points upon the inland waters of this state or upon the high seas between points within this state for affiliated or parent or subsidiary companies or for the products of other corporations or persons engaged in the same industry, if the water transportation service is furnished in tank vessels or barges specially constructed to hold liquids or fluids in bulk and if the service is not furnished to others not engaged in the same industry.

(b) Any corporation or person who operates any vessel for the transportation of persons for compensation, between points in this state if one terminus of every trip operated by the corporation or person is within the boundaries of a U.S. military reservation and is performed under a contract with an agency of the federal government which specifies the terms of service to be provided; and provided that the corporation or person does not perform any service between termini within this state which are outside of a U.S. military reservation. For the purposes of this subdivision, the conditions of this exemption shall be reviewed by the Public Utilities Commission annually as of the first day of January of each year.

(c) Any corporation or person owning, controlling, operating, or managing any recreational conveyance such as a ski lift, ski tow, J-bar, T-bar, chair lift, aerial tramway, or other device or equipment used primarily while participating in winter sports activities.

(d) Any highway permit carrier as defined in Section 3515.

(e) Any corporation or person furnishing or otherwise providing transportation by horse, mule, or other equine animal for entertainment or recreational purposes.

(f) Any integrated intermodal small package carrier which is registered subject to Chapter 2.7 (commencing with Section 4120) of Division 2.

SEC. 3. Section 3511 of the Public Utilities Code is amended to read:

3511. "Highway carrier" means every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, engaged in transportation of property for compensation or hire as a business over any public highway in this state by means of a motor vehicle, except that "highway carrier" does not include:

(a) Any farmer resident of this state who occasionally transports from the place of production to a warehouse, regular market, place of storage, or place of shipment the farm products of neighboring

farmers in exchange for like services or for a cash consideration or farm products for compensation.

(b) Persons or corporations hauling their own property.

(c) Any farmer operating a motor vehicle used exclusively in the transportation of his or her livestock and agricultural commodities or in the transportation of supplies to his or her farm.

(d) Any nonprofit agricultural cooperative association organized and acting within the scope of its powers under Chapter 1 (commencing with Section 54001) of Division 20 of the Agricultural Code to the extent only that it is engaged in transporting its own property or the property of its members.

(e) Any person exclusively transporting United States mail pursuant to a contract with the United States government.

(f) Any integrated intermodal small package carrier which is registered subject to Chapter 2.7 (commencing with Section 4120).

SEC. 4. Chapter 2.7 (commencing with Section 4120) is added to Division 2 of the Public Utilities Code, to read:

CHAPTER 2.7. INTEGRATED INTERMODAL SMALL PACKAGE CARRIERS

Article 1. General Provision and Definitions

4120. For purposes of this chapter, "integrated intermodal small package carrier" means any person or corporation that transports by motor vehicle packages or articles weighing not more than 150 pounds and that provides, by itself or through a company affiliated through common ownership, intermodal air-ground transportation service for the packages or articles in both interstate and intrastate commerce. The incidental or occasional use of aircraft in transporting packages or articles does not constitute integrated intermodal operation within the meaning of this section.

4121. For purposes of this chapter, "department" means the Department of the California Highway Patrol.

4122. For purposes of this chapter, "pull notice program" means the program of driver identification maintained by the Department of Motor Vehicles pursuant to Section 1808.1 of the Vehicle Code.

4123. For purposes of this chapter, "terminal inspection program" means the program of terminal inspection maintained by the department pursuant to Section 34501.12 of the Vehicle Code.

Article 2. Registration of Integrated Intermodal Small Package Carriers

4125. (a) Except as provided in Section 4129, no integrated intermodal small package carrier shall operate a motor vehicle on any public highway of this state unless it is currently registered with the commission.

(b) The commission shall grant registration upon the filing of the

application and the payment of the fee as required by this article, and shall assign an identification number to the carrier.

(c) The transportation of packages or articles larger than 150 pounds by a person or corporation registered pursuant to Section 4125 does not relieve that person of any obligation imposed by this chapter.

4126. A person or corporation seeking registration as an integrated intermodal small package carrier shall file an application under oath with the commission showing all of the following:

(a) A description of the service offered demonstrating a limitation to packages and articles weighing not more than 150 pounds.

(b) Intermodal air-ground operation in interstate and intrastate commerce, including a description of the manner in which air transportation and ground transportation are integrated in the provision of transportation service.

(c) Insurance in compliance with Article 3 (commencing with Section 4130).

(d) Compliance with the pull notice program.

(e) Compliance with the terminal inspection program.

(f) Vehicle identification numbers for each vehicle issued by the department pursuant to Section 34507.5 of the Vehicle Code.

4127. (a) A fee of five thousand dollars ($5,000) shall be paid to the commission at the time of filing of the application for registration as an integrated intermodal small package carrier.

(b) A registration renewal fee of seven hundred fifty dollars ($750) plus fifty dollars ($50) per self-propelled motor vehicle utilized in providing the small package delivery service shall be paid to the commission annually.

(c) During the first year any carrier is registered pursuant to this chapter, the carrier shall pay to the commission, in equal quarterly installments, one hundred dollars ($100) per self-propelled motor vehicle used to provide the small package delivery service. During the second year, and following, the per vehicle fee shall be as provided in subdivision (b).

(d) The commission may assess reinstatement fees in the amount of its and the department's actual costs associated with suspension and reinstatement of registration pursuant to Section 4132 or 4138.

(e) The fees paid pursuant to this section shall be deposited in the Transportation Rate Fund to be utilized in the commission's safety-related supervision and enforcement activities. The commission shall remit the department's portion of the reinstatement fee to the department.

(f) The fees established by and paid pursuant to this section shall be in lieu of the fees established by and paid pursuant to Chapter 6 (commencing with Section 5001).

4128. An integrated intermodal small package carrier granted registration under this chapter shall display the identification number on all vehicles operated pursuant to the registration.

4128.5. (a) Any person or corporation who subhauls for an

integrated intermodal small package carrier shall be a highway contract carrier.

(b) No integrated intermodal small package carrier may utilize subhaulers or otherwise directly or indirectly purchase transportation by motor vehicle to provide services for which registration is required under this chapter, if the total amount paid to all subhaulers or for the purchased transportation exceeds 10 percent of the gross intrastate revenue of the integrated intermodal small package carrier derived from transporting packages or articles described by Section 4120 in any calendar year.

4129. (a) The State of California and its agencies and political subdivisions are exempt from the registration requirements of this chapter.

(b) The United States and its agencies and instrumentalities are exempt from the registration requirements of this chapter.

Article 3. Insurance

4130. A permit to operate shall not be granted to an applicant until there is filed with and accepted by the commission, in the form that it prescribes, proof of protection against liability, as follows:

(a) A currently effective certificate of insurance or a surety bond issued by an admitted insurer evidencing protection against liability in an amount imposed by law for the payment of damages for personal injury to or death of any person or for property damage, or both; or evidence of a qualification of the applicant as a self-insurer for public liability and property damage as may be authorized by the commission under any applicable general orders of the commission.

(b) A currently effective certificate of insurance or surety bond issued by an admitted insurer evidencing protection against liability for the transportation and handling of hazardous materials as imposed by state law; or evidence of the qualification of the applicant as a self-insurer for liability for the transportation and handling of hazardous materials as may be authorized by the commission under any applicable general orders of the commission; or a statement made under penalty of perjury, stating that the applicant, in its operations as a motor carrier in this state, does not engage in the transportation or handling of hazardous materials and will not engage in the transportation or handling or hazardous materials without first obtaining and providing to the commission proof of protection against liability for the transportation and handling.

(c) A currently effective certificate of workers' compensation insurance coverage for the applicant's employees or a surety bond issued by an admitted insurer evidencing protection against liability in an amount imposed by the state's workers' compensation laws; or a certificate of consent to self-insure issued by the Director of Industrial Relations, and the identity of the administrator of the applicant's workers' compensation self-insurance plan; or a statement made under penalty of perjury, stating that the applicant,

in its operations as a motor carrier in this state, does not employ any person in any manner so as to become subject to the workers' compensation laws of this state.

(d) Valid proof of protection against liability as required in subdivisions (a), (b), and (c) shall be continued in force and effect by the applicant throughout the active life of the permit. If the protection against liability consists of one or more policies of insurance or surety bonds, no policy of insurance or surety bond shall be cancelable on less than 30 days' written notice to the commission, except in the event that the carrier ceases operations as a permitted carrier with approval of the commission. In no event shall the protection against liability for any of the harms enumerated in subdivisions (a), (b), and (c) be less than the protection required for highway carriers subject to the jurisdiction of the commission. If a certificate of insurance or self-insurance or a statement under penalty of perjury as required in subdivision (a), (b), or (c) ceases to be effective, or if the circumstances underlying the certificate or statement under penalty of perjury change, a permitted carrier under Section 4125 shall promptly notify the commission of the changed circumstances and shall promptly submit updated proof of protection against liability as required by this section.

4131. Whenever the commission determines that the certificate of insurance or surety bond of an integrated intermodal small package carrier has lapsed or been terminated, the commission shall suspend the registration of the integrated intermodal small package carrier. The commission shall notify the integrated intermodal small package carrier of any action taken under this section.

4132. The commission shall reinstate the registration of an integrated intermodal small package carrier suspended pursuant to Section 4131 upon receipt of appropriate evidence of financial responsibility as determined by the commission.

Article 4. Enforcement

4135. Upon the receipt of a written determination from the department that an integrated intermodal small package carrier is engaged in unsafe operation, has failed the terminal inspection program or has failed to enroll its drivers in the pull notice program, the commission shall suspend the registration of the integrated intermodal small package carrier.

4136. (a) The commission shall determine that the department has complied with Section 4137 before suspending any registration pursuant to Section 4135.

(b) The commission shall notify the integrated intermodal small package carrier of any action taken pursuant to Section 4135.

(c) Whenever the commission suspends the registration of an integrated intermodal small package carrier pursuant to Section 4135, 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 therefore is filed with the commission.

(d) 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, or cancel the carrier's registration.

(e) The commission may cancel the registration of any carrier suspended pursuant to Section 4135 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.

4137. (a) Before transmitting a determination pursuant to Section 4135, the department shall notify in writing an integrated intermodal small package carrier at risk for suspension of all of the following:

(1) The department has determined that the carrier's safety record or compliance with safety requirements, including the terminal inspection program or the pull notice program, is unsatisfactory, furnishing a copy of any documentation supporting the determination.

(2) The determination may result in a suspension or cancellation of the carrier's registration by the commission.

(3) The carrier may request a review of the determination by the department within five days of its receipt of the notice required by this section.

(b) If a review is requested by the carrier, the department shall conduct and evaluate that review prior to transmitting the determination to the commission.

4138. (a) An integrated intermodal small package carrier whose registration is suspended pursuant to Section 4135 may obtain a reinspection of its terminal and vehicles by the department by submitting a written request for a reinspection to the department. The department shall perform a reinspection within a reasonable time, and shall transmit its recommendation for reinstatement to the commission, along with a statement of the costs of the reinspection.

(b) The commission shall promptly reinstate the registration of an integrated intermodal small package carrier suspended pursuant to Section 4135 upon receipt of a written recommendation of reinstatement from the department and payment of the reinstatement fee. The reinstatement fee shall include the department's costs.

4138.5. (a) Every carrier registered pursuant to Section 4125 shall furnish the commission annually as specified by the commission a list prepared under penalty of perjury of all vehicles used in transportation for compensation within this state during the preceding year. The commission shall furnish a copy of this list to the department and to the carrier's insurer, if the carrier's accident liability protection is provided by a policy of insurance.

(b) If the carrier's insurer informs the commission that the carrier has failed to obtain insurance coverage for any vehicle reported on the list, the commission may, in addition to any other applicable penalty provided in this chapter, for a first occurrence suspend the carrier's registration or impose a fine or both, and for a second and subsequent occurrence may suspend or revoke the carrier's registration or impose a fine or both.

4139. Any person who violates any provision of this chapter is guilty of an infraction and is punishable by a fine of not more than two thousand five hundred dollars ($2,500) or by imprisonment in a county jail for not more three months for each day of unlawful operation, and in addition shall be liable for any unpaid registration and renewal fees imposed by Section 4127 during the period of unlawful operation, together with the costs of enforcement.

4140. The commission may bring an action for injunction to prevent operation of motor vehicles in violation of this chapter.

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 1227

An act to amend Sections 9351.3 and 9359.1 of, and to add Section 9355.41 to, the Government Code, and to amend Section 12900 of the Insurance Code, relating to insurance.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 9351.3 of the Government Code is amended to read:

9351.3. "Legislator" means a Member of the Assembly or a Member of the Senate, an elective officer of the state whose office is provided by the Constitution, the Insurance Commissioner, or a legislative statutory officer.

SEC. 2. Section 9355.41 is added to the Government Code, to read:

9355.41. The Insurance Commissioner may become a member of this system as provided in this section. An Insurance Commissioner

who is elected after January 1, 1994, may file an election within 90 days after the commencement of the term of office for which he or she is elected. Upon the filing of the election he or she becomes a member of this system on the first day of the month following the filing of the election.

SEC. 3. Section 9359.1 of the Government Code is amended to read:

9359.1. (a) The retirement allowance for a member all of whose credited service was rendered as a Member of the Senate or Assembly except as provided in subdivision (d) is an annual amount equal to five percent (5%) of the compensation payable, at the time payments of the allowance fall due, to incumbent Members of the Senate or Assembly, multiplied by the number of years of service with which the member is credited at the time of his or her retirement, not to exceed 15 years. In no event shall any retirement allowance payable under this chapter to any such member exceed the compensation payable to Members of the Legislature at the time the payment of the allowance is made, except that the retirement allowance of any such member who is credited with more than 15 years shall be increased by an amount equal to 3 percent of the compensation payable, at the time payment of the allowance falls due, to incumbent Members of the Senate or Assembly for each year or fraction of a year in excess of 15 years.

(b) The retirement allowance for a member all of whose credited service was rendered as the Insurance Commissioner or as an elective officer of the state whose office is provided for by the Constitution other than a judge (and other than a Member of the Senate or Assembly) the sum of (1) is an annual amount equal to five percent (5%) of the highest compensation received by the officer while serving in that office, multiplied by the number of years of service with which the member is credited at the time of his or her retirement, not to exceed eight (8) years, plus, if the member is credited with 24 or more years of service, (2) one and two-thirds percent (1⅔%) of the compensation to which the five percent (5%) rate is applicable under subparagraph (1) of this subdivision for his or her first eight years of credited service, multiplied by the number of years of service in excess of eight years with which the member is credited at the time of his or her retirement, not to exceed 12 years of such credited service in excess of the eight years of service referred to in subparagraph (1) of this subdivision.

(c) The retirement allowance for a member part of whose credited service was rendered as a Member of the Senate or Assembly and part of whose credited service was rendered as the Insurance Commissioner or as an elective officer of the state whose office is provided for by the Constitution, other than a judge (and other than a Member of the Senate or Assembly) is the sum of (1) an annual amount equal to five percent (5%) of all the compensation, at the time payment of the allowance falls due, to the officer holding the highest salaried office which the member held at

any time during his or her service prior to retirement, multiplied by the number of years of service with which the member is credited at the time of his or her retirement, not to exceed eight (8) years, plus, if the member is credited with 24 or more years of service, (2) one and two-thirds percent (1⅔%) of the compensation to which the five percent (5%) rate is applicable under subparagraph (1) of this subdivision for his or her first eight years of credited service, multiplied by the number of years of service rendered as the Insurance Commissioner or as an elective officer of the state whose office is provided for by the Constitution, other than a judge and other than a Member of the Senate or Assembly, with which the member is credited at the time of his or her retirement, not to exceed 12 years of that credited service in excess of the eight years referred to in subparagraph (1) of this subdivision. If, however, the member would be entitled to receive a greater allowance under subdivision (a), (b), or (d) of this section if all of his or her credited service had been rendered as a Member of the Senate or Assembly or as the Insurance Commissioner or as an elective officer of the state whose office is provided for by the Constitution other than a judge (and other than a Member of the Senate or Assembly), then all of his or her credited service shall be deemed to have been rendered as a Member of the Senate or Assembly or as such other elective officer, and he or she shall receive a retirement allowance computed under subdivision (a), (b), or (d) of this section, whichever is greater.

(d) The retirement allowance for a member, all of whose service was rendered as a Member of the Senate or Assembly, who is the surviving spouse of a deceased Member of the Senate or Assembly and who becomes the immediate successor in office of such deceased Member of the Senate or Assembly is an annual amount equal to five percent (5%) of the compensation payable, at the time the payments of the allowance fall due, to incumbent Members of the Senate or Assembly, multiplied by the number of years of service with which the member is credited at the time of retirement plus the number of years of service as a Member of the Senate or Assembly rendered by the member's deceased husband or wife plus any period in the term, for which the deceased member was elected, following his or her death, not to exceed 15 years. In no event shall any retirement allowance payable under this chapter to any such member exceed the compensation payable to Members of the Legislature at the time the payment of the allowance is made, except that the retirement allowance of any such member, whose total service creditable under this subdivision is in excess of 15 years, shall be increased by an amount equal to 3 percent of the compensation payable, at the time payment of the allowance falls due, to incumbent Members of the Senate or Assembly for each year or fraction of a year in excess of 15 years. This same computation of total service creditable shall be used as a basis in determining eligibility for retirement, under Sections 9359 and 9359.16, of a member described in this subdivision. Any member to whom this subdivision applies shall redeposit an amount

equal to the contributions which were required to be contributed by his or her deceased spouse while he or she was a member of the system for his or her service, computed on the basis of the salary and rate of contribution in effect at the time such service was rendered, or would have been rendered, in the Legislators' Retirement Fund on account of the service of his or her deceased spouse in order to use such service for the purposes of this section and Sections 9359 and 9359.16.

The amendments to this section enacted at the 1969 Regular Session shall apply with respect to any member who retired or retires, or died or dies while eligible to retire on or after May 1, 1969, and any allowance payable with respect to such a member who retired or died prior to the effective date of such amendment, shall be adjusted effective from the date of retirement or death to the amount it would have been had the amendment been in effect on that date.

The provisions of Sections 9359.11 and 9359.12 shall control over any conflicting provisions of this section.

The amendments to this section during the 1973–74 Second Extraordinary Session shall not be applicable to members who are retired on the effective date of the amendments.

SEC. 4. Section 12900 of the Insurance Code is amended to read:

12900. (a) The commissioner shall be elected by the people in the same time, place, and manner as the Governor not to exceed two four-year terms.

(b) Should a vacancy occur during the term of office, legislative confirmation shall be required for the position of commissioner in the same manner and procedure as that required by Section 5 of Article V of the California Constitution.

SEC. 5. The term limitations provided for pursuant to the amendments to Section 12900 of the Insurance Code, as contained in Section 4 of this act, shall apply only to terms beginning on or after January 1, 1995.

CHAPTER 1228

An act to add and repeal Article 10 (commencing with Section 18811) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Article 10 (commencing with Section 18811) is added to Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, to read:

Article 10. Designations to the California Public School Library Protection Fund

18811. The Legislature finds and declares all of the following:

(a) School libraries are an integral part of a public school, teaching students basic library skills and setting students out on the path to lifelong learning. California has the worst ratio of librarians to pupils in the nation. The ratio is 600 librarians for 5 million public school students—one for every 8,000 pupils. In California, 68 percent of the schools with a library did not have a fully credentialed librarian. In contrast, in the rest of the nation, only 21 percent of the schools did not have a fully credentialed librarian. Because of budget cuts, university libraries are also closing their doors to high school students. This means pupils are graduating without the ability to identify resources and get information from a public library.

(b) Adequate and up-to-date resource materials are the foundation of a school library. According to a 1987 study of California's public school libraries conducted by the State Department of Education, entitled "The Crisis in California School Libraries—A Special Study," many library collections were extremely out-of-date with 85 percent of nonfiction books copyrighted 10 years ago and 40 percent copyrighted at least 20 years ago. An average of only four dollars and seventy-six cents ($4.76) per pupil is spent for new and replacement library books in California.

(c) For the last two years, school districts have eliminated public school librarians, resorting to volunteers and noncredentialed employees, so that almost no elementary school has a school librarian. This trend is now showing up at the high school level. Funding for library books and technology has been reduced or eliminated.

(d) It is the intent of the Legislature in enacting this article to begin to reverse these trends and to provide a dedicated source of funding for K-12 public school libraries to purchase books and library media technology and to halt the elimination of credentialed librarian positions.

18812. (a) Any taxpayer may designate on the tax return that a contribution in excess of the tax liability, if any, be made to the California Public School Library Protection Fund, which is established by Section 18813. That designation is to be used as a voluntary checkoff on the tax return.

(b) The contributions shall be in full dollar amounts and may be made individually by each signatory on the joint return.

(c) A designation shall be made for any taxable year on the initial return for that taxable year, and once made shall be irrevocable. In the event that payments and credits reported on the return, together with any other credits associated with the taxpayer's account, do not exceed the taxpayer's liability, the return shall be treated as though no designation has been made. In the event that no designee is specified, the contribution shall be transferred to the General Fund, after reimbursement of the direct actual costs of the Franchise Tax

Board for the collection and the administration of funds under this article.

(d) In the event a taxpayer designates a contribution to more than one account or fund listed on the tax return, and the amount available for designation is insufficient to satisfy the total amount designated, the contribution shall be allocated among the designees on a pro rata basis.

(e) The Franchise Tax Board shall revise the forms of the return to include a space labeled the "California Public School Library Protection Fund" to allow for the designation permitted. The forms shall also include in the instructions information that the contribution may be in the amount of one dollar ($1) or more and that the contribution shall be used to purchase books and library media technology for schools as described in Sections 18177 and 18178 of the Education Code.

(f) A deduction shall be allowed under Article 6 (commencing with Section 17201) of Chapter 3 of Part 10 for any contribution made pursuant to subdivision (a).

18813. There is in the State Treasury the California Public School Library Protection Fund to receive contributions made pursuant to Section 18812. The Franchise Tax Board shall notify the Controller of both the amount of money paid by taxpayers in excess of their tax liability and the amount of refund money which taxpayers have designated pursuant to Section 18812 to be transferred to the California Public School Library Protection Fund. The Controller shall transfer from the Personal Income Tax Fund to the California Public School Library Protection Fund an amount not in excess of the sum of the amounts designated by individuals pursuant to Section 18812 for payment into that fund. It is the intent of the Legislature that the 1993 tax return include a space for the California Public School Library Protection Fund.

18814. All money transferred to the California Public School Library Protection Fund, upon appropriation by the Legislature, shall be allocated as follows:

(a) To the Franchise Tax Board and the Controller for reimbursement of all costs incurred by the Franchise Tax Board and the Controller in connection with their duties under this article.

(b) To the State Department of Education. These funds shall be expended for the purchase of books and library media technology through grants awarded to schools pursuant to Sections 18177 and 18178 of the Education Code, and for the payment of related administrative costs of the department.

18816. (a) This article shall remain in effect only until January 1, 1999, and as of that date is repealed.

(b) If, in any calendar year, the Franchise Tax Board estimates by September 1 that contributions described in this article made on returns filed in that calendar year will be less than two hundred fifty thousand dollars ($250,000), or the adjusted amount specified in subdivision (c), as may be applicable, then this article is repealed

with respect to taxable years beginning on and after January 1 of that calendar year. The Franchise Tax Board shall estimate the annual contribution amount by September 1 of each year using the actual amounts known to be contributed and an estimate of the remaining year's contributions.

(c) For each calendar year, beginning with calendar year 1994, the Franchise Tax Board shall adjust, on or before September 1 of that calendar year, the minimum estimated contribution amount specified in subdivision (b) as follows:

(1) The minimum estimated contribution amount for the calendar year shall be an amount equal to the product of the minimum estimated contribution amount for the prior September 1 multiplied by the inflation factor adjustment as specified in paragraph (2) of subdivision (h) of Section 17041, rounded off to the nearest dollar.

(2) The inflation factor adjustment used for the calendar year shall be based on the figures for the percentage change in the California Consumer Price Index received on or before August 1 of the calendar year pursuant to paragraph (1) of subdivision (h) of Section 17041.

(d) Notwithstanding the repeal of this article, any contribution amounts designated pursuant to this article prior to its repeal shall continue to be transferred and disbursed in accordance with this article as in effect immediately prior to that repeal.

SEC. 2. This bill shall become operative only if Assembly Bill 323 is enacted and becomes effective on or before January 1, 1994.

CHAPTER 1229

An act to amend Sections 6240 and 6256 of the Family Code, and to amend Section 13700 of the Penal Code, relating to domestic violence.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 6240 of the Family Code, as added by Section 154 of Chapter 219 of the Statutes of 1993, is amended to read:

6240. As used in this part:

(a) "Judicial officer" means a judge, commissioner, or referee designated under Section 6241.

(b) "Law enforcement officer" means one of the following officers who requests or enforces an emergency protective order under this part:

(1) A police officer.

(2) A sheriff's officer.

(3) A peace officer of the California Highway Patrol.

(4) A peace officer of the California State Police.

(5) A peace officer of the University of California Police Department.

(6) A peace officer of the California State University and College Police Departments.

(7) A peace officer of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2 of the Penal Code.

(8) A housing authority patrol officer, as defined in subdivision (d) of Section 830.31 of the Penal Code.

SEC. 2. Section 6256 of the Family Code, as added by Section 154 of Chapter 219 of the Statutes of 1993, is amended to read:

6256. An emergency protective order expires at the earlier of the following times:

(a) The close of judicial business on the fifth court day following the day of its issuance.

(b) The seventh calendar day following the day of its issuance.

SEC. 3. Section 13700 of the Penal Code is amended to read:

13700. As used in this title:

(a) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself or herself, or another.

(b) "Domestic violence" is abuse committed against an adult or a fully emancipated minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship.

(c) "Officer" means any officer or employee of a local police department or sheriff's office, and any peace officer of the California Highway Patrol, the California State Police, the Department of Parks and Recreation, the University of California Police Department, or the California State University and College Police Departments, as defined in Section 830.2, or a housing authority patrol officer, as defined in subdivision (d) of Section 830.31.

(d) "Victim" means a person who is a victim of domestic violence.

SEC. 4. Section 13700 of the Penal Code is amended to read:

13700. As used in this title:

(a) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself or herself, or another.

(b) "Domestic violence" means abuse committed against an adult or a fully emancipated minor who is a spouse, former spouse, person with whom the suspect is having or has had a consensual sexual relationship , person with whom the suspect lives or has lived, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship.

(c) "Officer" means any officer or employee of a local police

department or sheriff's office, and any peace officer of the California Highway Patrol, the California State Police, the Department of Parks and Recreation, the University of California Police Department, or the California State University and College Police Departments, as defined in Section 830.2, or a housing authority patrol officer, as defined in subdivision (d) of Section 830.31.

(d) "Victim" means a person who is a victim of domestic violence.

SEC. 5. Section 4 of this bill incorporates amendments to Section 13700 of the Penal Code proposed by both this bill and AB 2250. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1994, (2) each bill amends Section 13700 of the Penal Code, and (3) this bill is enacted after AB 2250, in which case Section 3 of this bill shall not become operative.

CHAPTER 1230

An act to amend Sections 13700 and 13730 of the Penal Code, relating to domestic violence.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 13700 of the Penal Code is amended to read:

13700. As used in this title:

(a) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself or herself, or another.

(b) "Domestic violence" means abuse committed against an adult or a fully emancipated minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship. For purposes of this subdivision, "cohabitant" means two unrelated adult persons living together for a substantial period of time, resulting in some permanency of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to, (1) sexual relations between the parties while sharing the same living quarters, (2) sharing of income or expenses, (3) joint use or ownership of property, (4) whether the parties hold themselves out as husband and wife, (5) the continuity of the relationship, and (6) the length of the relationship.

(c) "Officer" means any officer or employee of a local police department or sheriff's office, any peace officer of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2, any peace officer of the University of California Police Department, as defined in subdivision (c) of Section 830.2, or any

peace officer of the California State University Police Department, as defined in subdivision (d) of Section 830.2.

(d) "Victim" means a person who is a victim of domestic violence.

SEC. 1.5. Section 13700 of the Penal Code is amended to read:

13700. As used in this title:

(a) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself or herself, or another.

(b) "Domestic violence" means abuse committed against an adult or a fully emancipated minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship. For purposes of this subdivision, "cohabitant" means two unrelated adult persons living together for a substantial period of time, resulting in some permanency of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to, (1) sexual relations between the parties while sharing the same living quarters, (2) sharing of income or expenses, (3) joint use or ownership of property, (4) whether the parties hold themselves out as husband and wife, (5) the continuity of the relationship, and (6) the length of the relationship.

(c) "Officer" means any officer or employee of a local police department or sheriff's office, and any peace officer of the California Highway Patrol, the California State Police, the Department of Parks and Recreation, the University of California Police Department, or the California State University and College Police Departments, as defined in Section 830.2, or a housing authority patrol officer, as defined in subdivision (d) of Section 830.31.

(d) "Victim" means a person who is a victim of domestic violence.

SEC. 2. Section 13730 of the Penal Code is amended to read:

13730. (a) Each law enforcement agency shall develop a system, by January 1, 1986, for recording all domestic violence-related calls for assistance made to the department including whether weapons are involved. All domestic violence-related calls for assistance shall be supported with a written incident report, as described in subdivision (c), identifying the domestic violence incident. Monthly, the total number of domestic violence calls received and the numbers of those cases involving weapons shall be compiled by each law enforcement agency and submitted to the Attorney General.

(b) The Attorney General shall report annually to the Governor, the Legislature, and the public the total number of domestic violence-related calls received by California law enforcement agencies, the number of cases involving weapons, and a breakdown of calls received by agency, city, and county.

(c) Each law enforcement agency shall develop an incident report form that includes a domestic violence identification code by January 1, 1986. In all incidents of domestic violence, a report shall be written and shall be thus identified on the face of the report as

a domestic violence incident.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 13700 of the Penal Code proposed by both this bill and AB 224. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1994, (2) each bill amends Section 13700 of the Penal Code, and (3) this bill is enacted after AB 224, in which case Section 1 of this bill shall not become operative.

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 1231

An act to add Section 10607.5 to the Welfare and Institutions Code, relating to public social services.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 10607.5 is added to the Welfare and Institutions Code, to read:

10607.5. (a) In order to better inform the public as to the range of social services available to aid children and their families, and to provide a concise summary of programs caseworkers may access to aid clients, the State Department of Social Services shall prepare a guide to all programs administered by county departments of social services for children and their families, and that are regulated by the State Department of Social Services. This guide shall include brief descriptions of programs and succinct summaries of their eligibility requirements for all programs available on a statewide basis or in at least two counties. The guide shall not exceed five letter-sized pages. It is not the intent of the Legislature that the guide be a comprehensive training manual for social workers. The guide shall, therefore, be written in language tailored for comprehension by the general public. The guide shall be updated on an annual basis.

(b) The State Department of Social Services shall provide one master copy of the guide, prepared pursuant to subdivision (a), to

each county department of social services office that serves children and their families. The State Department of Social Services and county social services departments may make copies of the guide available to members of the public upon request on a fee-for-service basis, provided that the fee shall not exceed the cost of duplication and mailing.

CHAPTER 1232

An act to amend Sections 9765 and 9784 of, and to add Section 9720 to, the Business and Professions Code, and to amend Sections 7002, 7009, 7010, 7011, 7051, 7051.5, 7052, 7054.1, 7054.7, 7100, 7110, 7111, 7112, and 8341 of, and to add Sections 7006.3, 7006.5, 7006.7, 7010.3, 7010.5, 7010.7, 7011.2, 7025, 8112, 8343, 8344, 8344.5, 8345, 8345.5, 8346, 8346.5, and 8347 to, the Health and Safety Code, relating to human remains, and making an appropriation therefor.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. The Legislature finds and declares that lack of well-defined operational standards for the cremation of human remains has contributed to uncertainties regarding all of the following:

(a) The degree to which human remains can be legally commingled during cremation.

(b) The responsibility of the crematory for materials that are foreign to the human body.

(c) The extent of procedures necessary to ensure that human remains are properly identified throughout the cremation process. Therefore, the Legislature enacts the Cremation Standards Act to define the responsibilities of a crematory and to ensure that the rights and expectations of the public are protected.

SEC. 2. Section 9720 is added to the Business and Professions Code, to read:

9720. The board shall annually conduct a minimum of one unannounced inspection of each licensed crematory.

SEC. 3. Section 9765 of the Business and Professions Code is amended to read:

9765. Every cemetery authority operating a cemetery shall pay an annual regulatory charge for each cemetery to be fixed by the board at not more than four hundred dollars ($400), plus an additional charge of not more than fifty cents ($.50) for each burial, entombment, or inurnment, and not more than one dollar ($1) for each cremation, made during the preceding full calendar year, which charges shall be deposited in the Cemetery Fund. If the

cemetery authority performed the cremation and either the burial, entombment, or inurnment then there shall only be one additional charge due.

SEC. 4. Section 9784 of the Business and Professions Code is amended to read:

9784. No crematory licensee under this article shall conduct any cremations:

(a) Unless the licensee has a written contract with the person or persons entitled to custody of the remains clearly stating the location, manner, and time of disposition to be made of the remains, agreeing to pay the regular fees of the licensee for cremation, disposition, and other services rendered, and any other contractual provisions as may be required by the board.

(b) Of any remains more than 24 hours after delivery of the remains, unless the remains have been preserved in the interim by refrigeration or embalming.

(c) Unless the licensee has a contractual relationship with a licensed cemetery authority for final disposition of cremated human remains by burial, entombment or inurnment of any and all remains which are not lawfully disposed of or which are not called for or accepted by the person or persons entitled to the custody and control of the disposition thereof within 90 days of the date of death.

SEC. 5. Section 7002 of the Health and Safety Code is amended to read:

7002. "Cremated remains" means human remains after cremation in a crematory.

SEC. 6. Section 7006.3 is added to the Health and Safety Code, to read:

7006.3. "Cremation chamber" means the enclosed space within which the cremation of human remains is performed.

SEC. 7. Section 7006.5 is added to the Health and Safety Code, to read:

7006.5. "Cremation container" means a combustible, closed container resistant to leakage of bodily fluids into which the body of a deceased person is placed prior to insertion in a cremation chamber for cremation.

SEC. 8. Section 7006.7 is added to the Health and Safety Code, to read:

7006.7. "Cremated remains container" means a receptacle in which cremated remains are placed after cremation.

SEC. 9. Section 7009 of the Health and Safety Code is amended to read:

7009. "Interment" means the disposition of human remains by entombment or burial in a cemetery or, in the case of cremated remains, by inurnment, placement or burial in a cemetery, or burial at sea as provided in Section 7117.

SEC. 10. Section 7010 of the Health and Safety Code is amended to read:

7010. "Cremation" means the combination of all of the following:

(a) The reduction of the body of a deceased human to its essential elements by incineration.

(b) The repositioning or movement of the body or remains during incineration to facilitate the process.

(c) The processing of the remains after removal from the cremation chamber.

SEC. 11. Section 7010.3 is added to the Health and Safety Code, to read:

7010.3. "Processing" means the removal of foreign objects, pursuant to Section 7051, and the reduction of the particle size of cremated remains by mechanical means including, but not limited to, grinding, crushing, and pulverizing to a consistency appropriate for disposition.

SEC. 12. Section 7010.5 is added to the Health and Safety Code, to read:

7010.5. "Residue" means human ashes, bone fragments, prostheses, and disintegrated material from the chamber itself, imbedded in cracks and uneven spaces of a cremation chamber, that cannot be removed through reasonable manual contact with sweeping or scraping equipment. Material left in the cremation chamber, after the completion of a cremation, that can be reasonably removed shall be considered to be in excess of "residue."

SEC. 13. Section 7010.7 is added to the Health and Safety Code, to read:

7010.7. "Scattering" means the authorized dispersal of cremated remains at sea, or commingling in a defined area within a dedicated cemetery, in accordance with this chapter.

SEC. 14. Section 7011 of the Health and Safety Code is amended to read:

7011. "Inurnment" means placing cremated remains in a cremated remains container suitable for placement, burial, or shipment.

SEC. 15. Section 7011.2 is added to the Health and Safety Code, to read:

7011.2. "Placement" means the placing of a container holding cremated remains in a crypt, vault, or niche.

SEC. 16. Section 7025 is added to the Health and Safety Code, to read:

7025. "Disposition" means the interment of human remains within California, or the shipment outside of California, for lawful interment or scattering elsewhere, including release of remains pursuant to Section 10376.5.

SEC. 17. Section 7051 of the Health and Safety Code is amended to read:

7051. Every person who removes any part of any human remains from any place where it has been interred, or from any place where it is deposited while awaiting interment or cremation, with intent to sell it or to dissect it, without authority of law, or written permission of the person or persons having the right to control the remains

under Section 7100, or with malice or wantonness, is punishable by imprisonment in the state prison.

This section shall not prohibit the removal of foreign materials, pacemakers, or prostheses from cremated remains by an employee of a licensed crematory prior to final processing of ashes. Dental gold or silver, jewelry, or mementos, to the extent that they can be identified, may be removed by the employee prior to final processing if the equipment is such that it will not process these materials. However, any dental gold and silver, jewelry, or mementos that are removed shall be returned to the urn or cremation container, unless otherwise directed by the person or persons having the right to control the disposition.

SEC. 18. Section 7051.5 of the Health and Safety Code is amended to read:

7051.5. Every person who removes or possesses dental gold or silver, jewelry, or mementos from any human remains without specific written permission of the person or persons having the right to control those remains under Section 7100 is punishable by imprisonment in the state prison. The fact that residue and any unavoidable dental gold or dental silver, or other precious metals remain in the cremation chamber or other equipment or any container used in a prior cremation is not a violation of this section.

SEC. 19. Section 7052 of the Health and Safety Code is amended to read:

7052. Every person who willfully mutilates, disinters, or removes from the place of interment any human remains, without authority of law, is guilty of a felony. This section does not apply to any person who, under authority of law, removes the remains for reinterment, or performs a cremation.

SEC. 20. Section 7054.1 of the Health and Safety Code is amended to read:

7054.1. No cremated remains shall be removed from the place of cremation, nor shall there be any charge for the cremation, unless the cremated remains have been processed so that they are suitable for placement within a cremated remains container or an urn. Every contract for cremation services shall include specific written notification of the processing to the person having the right to control the disposition of the remains under Section 7100.

SEC. 21. Section 7054.7 of the Health and Safety Code is amended to read:

7054.7. (a) Except with the express written permission of the person entitled to control the disposition of the remains, no person shall:

(1) Cremate the remains of more than one person at the same time in the same cremation chamber, or introduce the remains of a second person into a cremation chamber until incineration of any preceding remains has been terminated and reasonable efforts have been employed to remove all fragments of the preceding remains. The fact that there is residue in the cremation chamber or other

equipment or any container used in a prior cremation is not a violation of this section.

(2) Dispose of or scatter cremated remains in a manner or in a location that the remains are commingled with those of another person. This paragraph shall not apply to the burial of cremated remains at sea from individual containers, to the scattering or burial of cremated remains in a dedicated cemetery, or to the disposal in a dedicated cemetery of accumulated residue removed from a cremation chamber or other cremation equipment.

(3) Place cremated or uncremated remains of more than one person in the same container or the same interment space. This paragraph shall not apply to the following:

(A) Interment of members of the same family in a common container designed for the cremated remains of more than one person.

(B) Interment in a space or container that has been previously designated at the time of sale as being intended for the interment of remains of more than one person.

(C) Disposal in a dedicated cemetery of residue removed from a cremation chamber or other cremation equipment.

(b) Written acknowledgement from the person entitled to control the disposition of the cremated remains shall be obtained by the person with whom arrangements are made for disposition of the remains on a form that includes, but is not limited to, the following information: "The human body burns with the casket, container, or other material in the cremation chamber. Some bone fragments are not combustible at the incineration temperature and, as a result, remain in the cremation chamber. During the cremation, the contents of the chamber may be moved to facilitate incineration. The chamber is composed of ceramic or other material which disintegrates slightly during each cremation and the product of that disintegration is commingled with the cremated remains. Nearly all of the contents of the cremation chamber, consisting of the cremated remains, disintegrated chamber material, and small amounts of residue from previous cremations, are removed together and crushed, pulverized, or ground to facilitate inurnment or scattering. Some residue remains in the cracks and uneven places of the chamber. Periodically, the accumulation of this residue is removed and interred in a dedicated cemetery property, or scattered at sea." The acknowledgment shall be filed and retained, for at least five years, by the person who disposes of or inters the remains.

(c) Any person, including any corporation or partnership, knowingly violating any provision of this section is guilty of a misdemeanor.

SEC. 22. Section 7100 of the Health and Safety Code is amended to read:

7100. (a) The right to control the disposition of the remains of a deceased person, including the location and conditions of interment, unless other directions have been given by the decedent, vests in,

and the duty of interment and the liability for the reasonable cost of interment of the remains devolves upon the following in the order named:

(1) The surviving spouse.

(2) The surviving child or children of the decedent, provided that, in the absence of actual knowledge to the contrary, a funeral director or cemetery authority may rely on instruction given by a child or children who represent (A) that they are the sole surviving child or children; (B) that they constitute a majority of the surviving children; or (C) that they have used reasonable efforts to notify all other surviving children of their instructions and are not aware of any opposition to those instructions on the part of one-half or more of all surviving children.

(3) The surviving parent or parents of the decedent.

(4) The person or persons respectively in the next degrees of kindred.

(5) The public administrator when the deceased has sufficient assets.

(b) A funeral director or cemetery authority shall have complete authority to control the disposition of the remains, and to proceed under this chapter to recover usual and customary charges for the disposition, when both of the following apply:

(1) Either of the following applies:

(A) The funeral director or cemetery authority has knowledge that none of the persons described in paragraphs (1) to (4) of subdivision (a) exists.

(B) None of the persons described in paragraphs (1) to (4) of subdivision (a) can be found after reasonable inquiry, or contacted by reasonable means.

(2) The public administrator fails to assume responsibility for disposition of the remains within 24 hours after having been given written notice of the facts. Written notice may be delivered by hand, U.S. mail, facsimile transmission, or telegraph.

(c) The liability for the reasonable cost of final disposition devolves jointly and severally upon all kin of the decedent in the same degree of kindred and upon the estate of the decedent; provided, that should a person accept the gift of an entire body under subdivision (a) of Section 7155.5, that person, subject to the terms of the gift, shall be liable for the reasonable cost of final disposition of the decedent.

(d) (1) A decedent, prior to his death, may direct the preparation for, type, or place of interment of his remains, either by oral or written instructions, but a written contract for funeral services may only be modified in writing. The person or persons otherwise entitled to control the disposition of the remains under the provisions of this section shall faithfully carry out the directions of the decedent subject only to the provisions of this chapter with respect to the duties of the coroner.

(2) If the instructions are contained in a will, they shall be

immediately carried out, regardless of the validity of the will in other respects or of the fact that the will may not be offered for or admitted to probate until a later date.

(e) This section shall be administered and construed to the end that the expressed instructions of the decedent or the person entitled to control the disposition shall be faithfully and promptly performed.

(f) A funeral director or cemetery authority shall not be liable to any person or persons for carrying out the instructions of the decedent or the person entitled to control the disposition.

SEC. 23. Section 7110 of the Health and Safety Code is amended to read:

7110. Any person signing any authorization for the interment or cremation of any remains warrants the truthfulness of any fact set forth in the authorization, the identity of the person whose remains are sought to be interred or cremated, and his or her authority to order interment or cremation. He or she is personally liable for all damage occasioned by or resulting from breach of such warranty.

SEC. 24. Section 7111 of the Health and Safety Code is amended to read:

7111. A cemetery authority may make an interment or cremation of any remains upon the receipt of a written authorization of a person representing himself or herself to be a person having the right to control the disposition of the remains pursuant to Section 7100.

A cemetery authority is not liable for cremating, making an interment, or for other disposition of remains permitted by law, pursuant to that authorization, unless it has actual notice that the representation is untrue.

SEC. 25. Section 7112 of the Health and Safety Code is amended to read:

7112. No action shall lie against any cemetery authority relating to the cremated remains of any person which have been left in its possession for a period of one year, unless a written contract has been entered into with the cemetery authority for their care or unless permanent interment has been made.

No licensed funeral director shall be liable in damages for the lawful disposition of any cremated human remains.

SEC. 26. Section 8112 is added to the Health and Safety Code, to read:

8112. Records required to be kept under Division 7 (commencing with Section 7000) or this division may be kept in original form or by photocopy, microfilm, microfiche, laser disc, or any other method that can produce an accurate reproduction of the original record.

SEC. 27. Section 8341 of the Health and Safety Code is amended to read:

8341. All cremated remains not disposed of in accordance with this chapter, within one year, shall be interred.

SEC. 28. Section 8343 is added to the Health and Safety Code, to read:

8343. A crematory shall maintain on its premises, or other business location within the State of California, an accurate record of all cremations performed, including all of the following information:

(a) Name of referring funeral director, if any.

(b) Name of deceased.

(c) Date of cremation.

(d) Name of cremation chamber operator.

(e) Time and date that body was inserted in cremation chamber.

(f) Time and date that body was removed from cremation chamber.

(g) Time and date that final processing of cremated remains was completed.

(h) Disposition of cremated remains.

(i) Name and address of authorizing agent.

(j) The identification number assigned to the deceased pursuant to Section 8344.

(k) A photocopy of the disposition permit filed in connection with the disposition.

This information shall be maintained for at least 10 years after the cremation is performed and shall be subject to inspection by the Cemetery Board.

SEC. 29. Section 8344 is added to the Health and Safety Code, to read:

8344. A crematory shall maintain an identification system allowing identification of each decedent beginning from the time the crematory accepts delivery of human remains until the point at which it releases the cremated remains to a third party. After cremation, an identifying disk, tab, or other permanent label shall be placed within the urn or cremated remains container before the cremated remains are released from the crematory. Each identification disk, tab, or label shall have a unique number that shall be recorded on all paperwork regarding the decedent's case and in the crematory log. Each crematory shall maintain a written procedure for identification of remains.

On or after March 1, 1994, any crematory that fails, when requested by an official of the board to produce a written procedure for identification of remains, shall have 15 working days from the time of the request to produce an identification procedure for review by the Executive Officer of the Cemetery Board. The license of the crematory shall be suspended pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, if no identification procedure is produced for review after 15 working days have elapsed.

SEC. 30. Section 8344.5 is added to the Health and Safety Code, to read:

8344.5. A crematory regulated by the Cemetery Board shall knowingly cremate only human remains in cremation chambers, along with the cremation container and no more than a negligible amount of chlorinated plastic pouches utilized for disease control

when necessary.

SEC. 31. Section 8345 is added to the Health and Safety Code, to read:

8345. If a cremated remains container is of insufficient capacity to accommodate all cremated remains of a given deceased, the crematory shall provide a larger cremated remains container at no additional cost, or place the excess remains in a secondary cremated remains container and attach the second container, in a manner so as not to be easily detached through incidental contact, to the primary cremated remains container for interment, scattering, or other disposition by the person entitled to control the disposition.

SEC. 32. Section 8345.5 is added to the Health and Safety Code, to read:

8345.5. A crematory shall not accept human remains for cremation unless the remains meet all of the following requirements:

(a) The remains shall be in a cremation container, as defined.

(b) The cremation container shall be labeled with the identity of the decedent.

SEC. 33. Section 8346 is added to the Health and Safety Code, to read:

8346. Within two hours after a crematory licensed by the State of California, takes custody of a body, it shall store the body at a temperature not greater than 50 degrees Fahrenheit unless the cremation process will begin within 24 hours of the time that crematory took custody.

SEC. 34. Section 8346.5 is added to the Health and Safety Code, to read:

8346.5. Every crematory operator, or duly authorized representative shall provide to any person who inquires in person, a written, or printed list of prices for cremation and storage, cremation containers, cremated remains containers and urns, and requirements for cremation containers. This information shall be provided over the telephone when requested. Commencing July 1, 1994, any written or printed list shall identify the crematorium and shall contain, at a minimum, the current address and phone number of the Cemetery Board in 8-point boldface type, or larger.

SEC. 35. Section 8347 is added to the Health and Safety Code, to read:

8347. (a) The crematory licensee, or his or her authorized representative shall provide instruction to all crematory personnel involved in the cremation process. This instruction shall lead to a demonstrated knowledge on the part of an employee regarding identification procedures used during cremation, operation of the cremation chamber and processing equipment and all laws relevant to the handling of a body and cremated remains. This instruction shall be outlined in a written plan maintained by the crematory licensee for inspection and comment by an inspector of the Cemetery Board.

(b) No employee shall be allowed to operate any cremation

equipment until he or she has demonstrated to the licensee or authorized representative that he or she understands procedures required to ensure that health and safety conditions are maintained at the crematory and that cremated remains are not commingled other than for acceptable residue, as defined. The crematory licensee shall maintain a record to document that an employee has received the training specified in this section.

(c) On or after March 1, 1994, any crematory that fails, when requested by an official of the board, to produce a written employee instruction plan, or record of employee training for inspection, shall have 15 working days from the time of the request to produce a plan or training record for review by the executive officer of the Cemetery Board. The license of the crematory shall be suspended, pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, if no plan or training record is produced for review after 15 working days have elapsed.

SEC. 36. 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 1233

An act to amend Section 2884.2 of, and to add Article 4 (commencing with Section 2895) to Chapter 10 of Part 2 of Division 1 of, the Public Utilities Code, relating to telecommunications.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 2884.2 of the Public Utilities Code is amended to read:

2884.2. (a) Except as specified in subdivision (b), the billing and collection practices of a telephone corporation for services rendered to or for an information service that contains harmful matter, as defined in subdivision (a) of Section 313 of the Penal Code, are not subject to the jurisdiction and control of the commission, notwithstanding Section 2884, but are a matter for contractual arrangement between the telephone corporation and the information provider.

(b) Nothing in subdivision (a) affects the commission's jurisdiction over billing and collection for any other information service.

(c) The commission may, on complaint or on its own motion, after a hearing, find and determine that circumstances including, but not limited to, anticompetitive results, require the exercise of jurisdiction and control by it over those matters removed from its jurisdiction and control by subdivision (a), and may then exercise that jurisdiction and control.

(d) Subdivision (a) applies only to that class of information-access telephone service furnished within or between service areas, as defined in Section 230.3, through the use of either a "976" prefix or a "900" access code telephone number, and applies only to billing and collection services in that class of service.

(e) The commission shall prepare and submit to the Legislature, on or before January 1, 1990, and annually thereafter, a report on all of the following:

(1) Any anticompetitive effects it finds and determines to have resulted from the implementation of this section.

(2) Any significant proposals for further deregulation made to the commission based on this section.

(3) The commission's findings and recommendations concerning the effectiveness and continuing need for this section.

(f) The commission may investigate and consider, for purposes of establishing telephone rates, revenues and expenses related to any billing or collection services rendered by a telephone corporation to or for an information provider.

(g) A telephone corporation shall, before refusing to provide billing and collection services for any information service, give the information provider of that service and the commission not less than 30 days' advance notice.

(h) If a telephone corporation elects to enter into a contractual arrangement to provide billing and collection services to an information provider, the telephone corporation shall provide those services to the information provider under the same terms, conditions, and rates that the service is offered to all other information providers contracting for the services. The telephone corporation shall provide copies of the contracts to the commission and, on request, to any other interested party.

(i) Notwithstanding Section 17024 of the Business and Professions Code, billing and collection services described in subdivision (a) are services subject to Part 2 (commencing with Section 16600) of Division 7 of that code. A person or firm claiming a violation of Section 17045 of that code, with respect to those services, may proceed in accordance with Article 4 (commencing with Section 17070) of Chapter 4 of Part 2 of Division 7 of that code, or pursue any other remedy available under law.

(j) This section 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. 2. Article 4 (commencing with Section 2895) is added to Chapter 10 of Part 2 of Division 1 of the Public Utilities Code, to read:

Article 4. Telecommunication Services

2895. This article shall be known and may be cited as the Telecommunications Customer Service Act of 1993.

2896. The commission shall require telephone corporations to provide customer service to telecommunication customers that includes, but is not limited to, all the following:

(a) Sufficient information upon which to make informed choices among telecommunications services and providers. This includes, but is not limited to, information regarding the provider's identity, service options, pricing, and terms and conditions of service. A provider need only provide information to its customers on the services which it offers.

(b) Ability to access a live operator by dialing the numeral "0" as an available, free option. The commission may authorize rates and charges for any operator assistance service provided subsequent to access.

(c) Reasonable statewide service quality standards, including, but not limited to, standards regarding network technical quality, customer service, installation, repair, and billing.

(d) Information concerning the regulatory process and how customers can participate in that process, including the process of resolving complaints.

2897. Consistent with other provisions of this code, orders, rules, and applicable tariffs of telecommunications service providers, the commission shall apply these policies to all providers of telecommunications services in California. These policies are not exclusive and may be supplemented by the commission.

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 1234

An act to amend Sections 2089, 2191, 2736.1, 2811.5, 2914, 2915, 4980.41, and 4996.2 of, and to add Sections 2091.2, 2196.5, 4980.57, and 4997 to, the Business and Professions Code, and to add Sections 1233.5 and 1259.5 to the Health and Safety Code, relating to spousal abuse detection.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 2089 of the Business and Professions Code is amended to read:

2089. (a) Each applicant for a physician's and surgeon's certificate shall show by official transcript or other official evidence satisfactory to the Division of Licensing that he or she has successfully completed a medical curriculum extending over a period of at least four academic years, or 32 months of actual instruction, in a medical school or schools located in the United States or Canada approved by the division, or in a medical school or schools located outside the United States or Canada which otherwise meets the requirements of this section. The total number of hours of all courses shall consist of a minimum of 4,000 hours. At least 80 percent of actual attendance shall be required. If an applicant has matriculated in more than one medical school, the applicant must have matriculated in the medical school awarding the degree of doctor of medicine or its equivalent for at least the last full academic year of medical education received prior to the granting of the degree.

(b) The curriculum for all applicants shall provide for adequate instruction in the following subjects:

Alcoholism and other chemical substance dependency, detection and treatment.

Anatomy, including embryology, histology, and neuroanatomy.

Anesthesia.

Biochemistry.

Child abuse detection and treatment.

Dermatology.

Geriatric medicine.

Human sexuality.

Medicine, including pediatrics.

Neurology.

Obstetrics and gynecology.

Ophthalmology.

Otolaryngology.

Pathology, bacteriology, and immunology.

Pharmacology.

Physical medicine.
Physiology.
Preventive medicine, including nutrition.
Psychiatry.
Radiology, including radiation safety.
Spousal or partner abuse detection and treatment.
Surgery, including orthopedic surgery.
Therapeutics.
Tropical medicine.
Urology.

SEC. 2. Section 2091.2 is added to the Business and Professions Code, to read:

2091.2. The requirements that instruction in spousal or partner abuse detection and treatment be provided shall apply only to applicants who matriculate on or after September 1, 1994. The requirement for coursework in spousal or partner abuse detection and treatment shall be satisfied by, and the board shall accept in satisfaction of the requirement, a certification from the chief academic officer of the educational institution from which the applicant graduated that the required coursework is included within the institution's required curriculum for graduation.

SEC. 3. Section 2191 of the Business and Professions Code is amended to read:

2191. (a) In determining its continuing education requirements, the Division of Licensing shall consider including a course in human sexuality as defined in Section 2090 and nutrition to be taken by those licensees whose practices may require knowledge in those areas.

(b) The division shall consider including a course in child abuse detection and treatment to be taken by those licensees whose practices are such that there is a likelihood of contact with abused or neglected children.

(c) The division shall consider including a course in acupuncture to be taken by those licensees whose practices may require knowledge in the area of acupuncture and whose education has not included instruction in acupuncture.

(d) The division shall encourage every physician and surgeon to take nutrition as part of his or her continuing education, particularly a physician and surgeon involved in primary care.

(e) The division shall consider including a course in elder abuse detection and treatment to be taken by those licensees whose practices are of a nature that there is a likelihood of contact with abused or neglected persons 65 years of age and older.

(f) In determining its continuing education requirements, the division shall consider including a course in the early detection and treatment of substance abusing pregnant women to be taken by those licensees whose practices are of a nature that there is a likelihood of contact with these women.

(g) In determining its continuing education requirements, the division shall consider including a course in the special care needs of

drug addicted infants to be taken by those licensees whose practices are of a nature that there is a likelihood of contact with these infants.

(h) In determining its continuing education requirements, the division shall consider including a course providing training and guidelines on how to routinely screen for signs exhibited by abused women, particularly for physicians and surgeons in emergency, surgical, primary care, pediatric, prenatal, and mental health settings. In the event the division establishes a requirement for continuing education coursework in spousal or partner abuse detection or treatment, that requirement shall be met by each licensee within no more than four years from the date the requirement is imposed.

SEC. 4. Section 2196.5 is added to the Business and Professions Code, to read:

2196.5. The board shall periodically disseminate information and educational material regarding the detection and treatment of spousal or partner abuse to each licensed physician and surgeon and to each general acute care hospital in the state.

SEC. 5. Section 2736.1 of the Business and Professions Code is amended to read:

2736.1. (a) The course of instruction for an applicant who matriculates on or after September 1, 1985, shall include training in the detection and treatment of alcohol and chemical substance dependency.

(b) The course of instruction for an applicant who matriculates on or after January 1, 1995, shall include training in the detection and treatment of client abuse, including, but not limited to, spousal or partner abuse. The requirement for coursework in spousal or partner abuse detection and treatment shall be satisfied by, and the board shall accept in satisfaction of the requirement, a certification from the chief academic officer of the educational institution from which the applicant graduated that the required coursework is included within the institution's required curriculum for graduation.

SEC. 6. Section 2811.5 of the Business and Professions Code is amended to read:

2811.5. (a) Each person renewing his or her license under Section 2811 shall submit proof satisfactory to the board that, during the preceding two-year period, he or she has been informed of the developments in the registered nurse field or in any special area of practice engaged in by the licensee, occurring since the last renewal thereof, either by pursuing a course or courses of continuing education in the registered nurse field or relevant to the practice of the licensee, and approved by the board; or by other means deemed equivalent by the board.

(b) For purposes of this section, the board shall, by regulation, establish standards for continuing education. The standards shall be established in a manner to assure that a variety of alternative forms of continuing education are available to licensees including, but not limited to, academic studies, in-service education, institutes,

seminars, lectures, conferences, workshops, extension studies, and home study programs. The standards shall take cognizance of specialized areas of practice. The continuing education standards established by the board shall not exceed 30 hours of direct participation in a course or courses approved by the board, or its equivalent in the units of measure adopted by the board.

(c) The board shall encourage continuing education in spousal or partner abuse detection and treatment. In the event the board establishes a requirement for continuing education coursework in spousal or partner abuse detection or treatment, that requirement shall be met by each licensee within no more than four years from the date the requirement is imposed.

(d) This section shall not apply to licensees during the first two years immediately following their initial licensure in California or any other governmental jurisdiction.

(e) The board may, in accordance with the intent of this section, make exceptions from continuing education requirements for licensees residing in another state or country, or for reasons of health, military service, or other good cause.

This section shall become operative on July 1, 1978.

SEC. 7. Section 2914 of the Business and Professions Code is amended to read:

2914. Each applicant for licensure shall comply with all of the following requirements:

(a) Is not subject to denial of licensure under Division 1.5.

(b) Possess an earned doctorate degree (1) in psychology, (2) in education psychology, (3) in education with the field of specialization in counseling psychology or educational psychology, or (4) possess an earned doctorate degree deemed equivalent by the board in regulations duly adopted under this chapter. This degree or training shall be obtained from an accredited or approved university, college, professional school, or any other educational institution approved by the board as offering a comparable program in regulations duly adopted under this chapter.

No educational institution shall be denied recognition as an accredited or approved academic institution solely because its program is not accredited by any professional organization of psychologists, and nothing in this chapter or in the administration of this chapter shall require the registration with the board by educational institutions of their departments of psychology or their doctoral programs in psychology.

(c) Have engaged for at least two years in supervised professional experience under the direction of a licensed psychologist, the specific requirements of which shall be defined by the board in its regulations, or under suitable alternative supervision as determined by the board in regulations duly adopted under this chapter, at least one year of which shall be after being awarded the doctorate in psychology. If the supervising licensed psychologist fails to provide verification to the board of the experience required by this

subdivision within 30 days after being so requested by the applicant, the applicant may provide written verification directly to the board.

If the applicant sends verification directly to the board, the applicant shall file with the board a declaration of proof of service, under penalty of perjury, of the request for verification. A copy of the completed verification forms shall be provided to the supervising psychologist and the applicant shall prove to the board that a copy has been sent to the supervising psychologist by filing a declaration of proof of service under penalty of perjury, and shall file this declaration with the board when the verification forms are submitted.

Upon receipt by the board of the applicant's verification and declarations, a rebuttable presumption affecting the burden of producing evidence is created that the supervised, professional experience requirements of this subdivision have been satisfied. The supervising psychologist shall have 20 days from the day the board receives the verification and declaration to file a rebuttal with the board.

The authority provided by this subdivision for an applicant to file written verification directly shall apply only to an applicant who has acquired the experience required by this subdivision in the United States.

The board shall establish qualifications by regulation for supervising psychologists and shall review and approve applicants for this position on a case-by-case basis.

(d) Take and pass the examination required by Section 2941 unless otherwise exempted by the board under this chapter.

(e) Show by evidence satisfactory to the board that he or she has completed training in the detection and treatment of alcohol and other chemical substance dependency. This requirement applies only to applicants who matriculate on or after September 1, 1985.

(f) Show by evidence satisfactory to the board that he or she has completed coursework, in spousal or partner abuse assessment, detection, and intervention. Coursework required under this subdivision may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course. This requirement applies to applicants who begin graduate training on or after January 1, 1995. This requirement for coursework in spousal or partner abuse detection and treatment shall be satisfied by, and the board shall accept in satisfaction of the requirement, a certification from the chief academic officer of the educational institution from which the applicant graduated that the required coursework is included within the institution's required curriculum for graduation.

SEC. 8. Section 2915 of the Business and Professions Code is amended to read:

2915. (a) Except as provided in this section, on or after January 1, 1996, the board shall not issue any renewal license unless the applicant submits proof that he or she has completed no less than 18 hours of approved continuing education in the preceding year. On

or after January 1, 1997, except as provided in this section, the board shall issue renewal licenses only to those applicants who have completed 36 hours of approved continuing education in the preceding two years.

(b) Each person renewing his or her license issued pursuant to this chapter shall submit proof of compliance with this section to the board. False statements submitted pursuant to this section shall be a violation of Section 2970.

(c) A person applying for relicensure or for reinstatement to an active license status shall certify under penalty of perjury that he or she is in compliance with this section.

(d) (1) The continuing education requirement shall include, but shall not be limited to, courses required pursuant to Sections 25 and 28. The requirement may include courses pursuant to Sections 32 and 2914.1 and those in spousal or partner abuse assessment, detection, and intervention.

(2) In the event the board establishes a requirement for continuing education coursework in spousal or partner abuse detection or treatment, that requirement shall be met by each licensee within no more than four years from the date the requirement is imposed.

(3) Continuing education instruction approved to meet the requirements of this section shall be completed within the State of California, or shall be approved for continuing education credit by the American Psychological Association or its equivalent as approved by the board.

(e) The board may establish a policy for exceptions from the continuing education requirement of this section.

(f) The board may recognize continuing education courses that have been approved by one or more private nonprofit organizations that have at least 10 years' experience managing continuing education programs for psychologists on a statewide basis, including, but not limited to:

(1) Maintaining and managing related records and data.

(2) Monitoring and approving courses.

(g) The board shall adopt regulations as necessary for implementation of this section.

(h) A licensed psychologist shall choose continuing education instruction that is related to the assessment, diagnosis, and intervention for the client population being served or to the fields of psychology in which the psychologist intends to provide services, that may include new theoretical approaches, research, and applied techniques. Continuing education instruction shall include required courses specified in subdivision (d).

(i) A psychologist shall not practice outside his or her particular field or fields of competence as established by his or her education, training, continuing education, and experience.

(j) The administration of this section may be funded through professional license fees and continuing education provider and

course approval fees, or both. The fees related to the administration of this section shall not exceed the costs of administering the corresponding provisions of this section.

(k) Continuing education credit may be approved for those licensees who serve as commissioners on any examination pursuant to Section 2947, subject to limitations established by the board.

SEC. 9. Section 4980.41 of the Business and Professions Code is amended to read:

4980.41. All applicants for licensure shall complete the following coursework or training in order to be eligible to sit for the licensing examinations:

(a) A two semester or three quarter unit course in California law and professional ethics for marriage, family, and child counselors, which shall include, but not be limited to, the following areas of study:

(1) Contemporary professional ethics and statutory, regulatory, and decisional laws that delineate the profession's scope of practice.

(2) The therapeutic, clinical, and practical considerations involved in the legal and ethical practice of marriage, family, and child counseling, including family law.

(3) The current legal patterns and trends in the mental health profession.

(4) The psychotherapist/patient privilege, confidentiality, the patient dangerous to self or others, and the treatment of minors with and without parental consent.

(5) A recognition and exploration of the relationship between a practitioner's sense of self and human values and his or her professional behavior and ethics.

This course may be considered as part of the 48 semester or 72 quarter unit requirements contained in Section 4980.40.

(b) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28 or any regulations promulgated thereunder.

(c) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25, and any regulations promulgated thereunder. When coursework in a master's or doctor's degree program is acquired to satisfy this requirement, it shall be considered as part of the 48 semester or 72 quarter unit requirement contained in Section 4980.40.

(d) Except for persons who have started graduate study prior to January 1, 1986, a master's or doctor's degree qualifying for licensure shall include specific instruction in alcoholism and other chemical substance dependency as specified by regulation. When coursework in a master's or doctor's degree program is acquired to satisfy this requirement, it shall be considered as part of the 48 semester or 72 quarter unit requirement contained in Section 4980.40.

(e) Except for persons who began graduate study prior to January 1, 1995, a master's or doctor's degree qualifying for licensure shall include coursework in spousal or partner abuse assessment,

detection, and intervention. Coursework required under this subdivision may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course. The requirement for coursework in spousal or partner abuse detection and treatment shall be satisfied by, and the board shall accept in satisfaction of the requirement, a certification from the chief academic officer of the educational institution from which the applicant graduated that the required coursework is included within the institution's required curriculum for graduation.

SEC. 9.5. Section 4980.57 is added to the Business and Professions Code, to read:

4980.57. (a) The board shall encourage marriage, family, and child counselors to take continuing education classes in spousal or partner abuse assessment, detection, and intervention.

(b) In the event the board establishes a requirement for continuing education coursework in spousal or partner abuse detection or treatment, that requirement shall be met by each licensee within no more than four years from the date the requirement is imposed.

(c) This section shall only become operative if Senate Bill 404, adding Sections 4980.56 and 4996.22, is enacted and takes effect on or before January 1, 1995.

SEC. 10. Section 4996.2 of the Business and Professions Code is amended to read:

4996.2. Each applicant shall furnish evidence satisfactory to the board that he or she complies with all of the following requirements:

(a) Is at least 21 years of age.

(b) Has received a master's degree from an accredited school of social work.

(c) Has had two years of supervised post-masters degree experience, as specified in Section 4996.20.

(d) Has not committed any crimes or acts constituting grounds for denial of licensure under Section 480.

(e) Has completed adequate instruction and training in the subject of alcoholism and other chemical substance dependency. This requirement applies only to applicants who matriculate on or after January 1, 1986.

(f) Has completed instruction and training in spousal or partner abuse assessment, detection, and intervention. Coursework required under this subdivision may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course. This requirement applies only to applicants who begin graduate training on or after January 1, 1995. This requirement for coursework in spousal or partner abuse detection and treatment shall be satisfied by, and the board shall accept in satisfaction of the requirement, a certification from the chief academic officer of the educational institution from which the applicant graduated that the required coursework is included within the institution's required curriculum for graduation.

SEC. 11. Section 4997 is added to the Business and Professions Code, to read:

4997. (a) The board shall encourage social workers to take continuing education classes in spousal or partner abuse assessment, detection, and intervention.

(b) In the event the board establishes a requirement for continuing education coursework in spousal or partner abuse detection or treatment, that requirement shall be met by each licensee within no more than four years from the date the requirement is imposed.

(c) This section shall only become operative if Senate Bill 404, adding Sections 4980.56 and 4996.22, is enacted and takes effect on or before January 1, 1995.

SEC. 12. Section 1233.5 is added to the Health and Safety Code, to read:

1233.5. By January 1, 1995, a licensed clinic board of directors and its medical director shall establish and adopt written policies and procedures to screen patients for purposes of detecting spousal or partner abuse. The policies shall include procedures to accomplish all of the following:

(a) Identifying, as part of its medical screening, spousal or partner abuse among patients.

(b) Documenting in the medical record patient injuries or illnesses attributable to spousal or partner abuse.

(c) Providing to patients who exhibit signs of spousal or partner abuse a current referral list of private and public community agencies that provide, or arrange for, the evaluation, counseling, and care of persons experiencing spousal or partner abuse, including, but not limited to, hot lines, local battered women's shelters, legal services, and information about temporary restraining orders.

(d) Designating licensed clinical staff to be responsible for the implementation of these guidelines.

It is the intent of the Legislature that clinics, for purposes of satisfying the requirements of this section, adopt guidelines similar to those developed by the American Medical Association regarding domestic violence detection and referral. The Legislature recognizes that while guidelines evolve and change, the American Medical Association's guidelines may serve, at this time, as a model for clinics to follow.

SEC. 13. Section 1259.5 is added to the Health and Safety Code, to read:

1259.5. By January 1, 1995, a general acute care hospital, acute psychiatric hospital, special hospital, psychiatric health facility, and chemical dependency recovery hospital shall establish written policies and procedures to screen patients routinely for purposes of detecting spousal or partner abuse. The policies shall include guidelines on all of the following:

(a) Identifying, through routine screening, spousal or partner abuse among patients.

(b) Documenting patient injuries or illnesses attributable to spousal or partner abuse.

(c) Educating appropriate hospital staff about the criteria for identifying, and the procedures for handling, patients whose injuries or illnesses are attributable to spousal or partner abuse.

(d) Advising patients exhibiting signs of spousal or partner abuse of crisis intervention services that are available either through the hospital facility or through community based crisis intervention and counseling services.

(e) Providing to patients who exhibit signs of spousal or partner abuse information on domestic violence and a referral list, to be updated periodically, of private and public community agencies that provide, or arrange for, the evaluation and care for persons experiencing spousal or partner abuse, including, but not limited to, hot lines, local battered women's shelters, legal services, and information about temporary restraining orders.

SEC. 14. 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 1235

An act to add Section 10248 to the Government Code, relating to the Legislature.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. The Legislature finds and declares that it is now possible and feasible in this electronic age to more widely distribute legislative information by way of electronic communication in order to better inform the public of the matters pending before the Legislature and its proceedings. The Legislature further finds that it is desirable to make information regarding these matters and proceedings available to the citizens of this state, irrespective of where they reside, in a timely manner and for the least possible cost.

SEC. 2. Section 10248 is added to the Government Code, to read:

10248. (a) The Legislative Counsel shall, with the advice of the Assembly Committee on Rules and the Senate Committee on Rules,

make all of the following information available to the public in electronic form:

(1) The legislative calendar, the schedule of legislative committee hearings, a list of matters pending on the floors of both houses of the Legislature, and a list of the committees of the Legislature and their members.

(2) The text of each bill introduced in each current legislative session, including each amended, enrolled, and chaptered form of each bill.

(3) The bill history of each bill introduced and amended in each current legislative session.

(4) The bill status of each bill introduced and amended in each current legislative session.

(5) All bill analyses prepared by legislative committees in connection with each bill in each current legislative session.

(6) All vote information concerning each bill in each current legislative session.

(7) Any veto message concerning a bill in each current legislative session.

(8) The California Codes.

(9) The California Constitution.

(10) All statutes enacted on or after January 1, 1993.

(b) The information identified in subdivision (a) shall be made available to the public by means of access by way of the largest nonproprietary, nonprofit cooperative public computer network. The information shall be made available in one or more formats and by one or more means in order to provide the greatest feasible access to the general public in this state. Any person who accesses the information may access all or any part of the information. The information may also be made available by any other means of access that would facilitate public access to the information. The information that is maintained in the legislative information system that is operated and maintained by the Legislative Counsel shall be made available in the shortest feasible time after the information is available in the information system. The information that is not maintained in the information system shall be made available in the shortest feasible time after it is available to the Legislative Counsel.

(c) Any documentation that describes the electronic digital formats of the information identified in subdivision (a) and is available to the public shall be made available by means of access by way of the computer network specified in subdivision (b).

(d) Personal information concerning a person who accesses the information may be maintained only for the purpose of providing service to the person.

(e) No fee or other charge may be imposed by the Legislative Counsel as a condition of accessing the information that is accessible by way of the computer network specified in subdivision (b).

(f) The electronic public access provided by way of the computer network specified in subdivision (b) shall be in addition to other

electronic or print distribution of the information.

(g) No action taken pursuant to this section shall be deemed to alter or relinquish any copyright or other proprietary interest or entitlement of the State of California relating to any of the information made available pursuant to this section.

CHAPTER 1236

An act to amend Section 26605 of, and to add Section 26605.1 to, the Government Code, and to amend Section 831.5 of the Penal Code, relating to county jails.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. The Legislature finds and declares the following:

(a) The security of county jail facilities and the corresponding safety of the public is of statewide concern.

(b) That the sheriff, being the chief law enforcement officer of the county, shall have the sole and exclusive authority for the keeping of the jails and the prisoners therein.

SEC. 2. Section 26605 of the Government Code is amended to read:

26605. Notwithstanding any other provision of law, except in counties in which the sheriff, as of July 1, 1993, is not in charge of and the sole and exclusive authority to keep the county jail and the prisoners in it, the sheriff shall take charge of and be the sole and exclusive authority to keep the county jail and the prisoners in it, except for work furlough facilities where by county ordinance the work furlough administrator is someone other than the sheriff.

SEC. 3. Section 26605.1 is added to the Government Code, to read:

26605.1. Notwithstanding any other provision of law, no deputy sheriff shall be required to become a custodial or other officer involuntarily.

SEC. 4. 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. Custodial officers of a county shall be employees of, and under the authority of, the sheriff, except in counties in which

the sheriff, as of July 1, 1993, is not in charge of and the sole and exclusive authority to keep the county jail and the prisoners in it. 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.

CHAPTER 1237

An act to add Sections 650.01 and 650.02 to the Business and Professions Code, relating to health care referrals.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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 "Physician Ownership and Referral Act of 1993."

(b) It is recognized by the Legislature that the referral of a patient by a health care provider to a provider of health care services in which the referring health care provider has an investment interest represents a potential conflict of interest.

(c) The Legislature finds these referral practices may limit or eliminate competitive alternatives in the health care services market, may result in overutilization of health care services, may increase costs to the health care system, and may adversely affect the quality of health care.

(d) The Legislature also recognizes, however, that it may be appropriate for providers to own entities providing health care services, and to refer patients to those entities, as long as certain safeguards are present in the arrangement.

(e) It is the intent of the Legislature to provide guidance to health care providers regarding prohibited patient referrals between health care providers and entities providing health care services and to protect the citizens of California from unnecessary and costly health care expenditures.

SEC. 2. Section 650.01 is added to the Business and Professions Code, immediately following Section 650, to read:

650.01. (a) Notwithstanding Section 650, or any other provision of law, it is unlawful for a licensee to refer a person for laboratory, diagnostic nuclear medicine, radiation oncology, physical therapy, physical rehabilitation, psychometric testing, home infusion therapy, or diagnostic imaging goods or services if the licensee or his or her immediate family has a financial interest with the person or in the entity that receives the referral.

(b) For purposes of this section and Section 650.02, the following shall apply:

(1) "Diagnostic imaging" includes, but is not limited to, all X-ray, computed axial tomography, magnetic resonance imaging nuclear medicine, positron emission tomography, mammography, and ultrasound goods and services.

(2) A "financial interest" includes, but is not limited to, any type of ownership interest, debt, loan, lease, compensation, remuneration, discount, rebate, refund, dividend, distribution, subsidy, or other form of direct or indirect payment, whether in money or otherwise,

between a licensee and a person or entity to whom the licensee refers a person for a good or service specified in subdivision (a). A financial interest also exists if there is an indirect relationship between a licensee and the referral recipient including, but not limited to, an arrangement whereby a licensee has an ownership interest in an entity that leases property to the referral recipient. Any financial interest transferred by a licensee to, or otherwise established in, any person or entity for the purpose of avoiding the prohibition of this section shall be deemed a financial interest of the licensee. For purposes of this paragraph, "direct or indirect payment" shall not include a royalty or consulting fee received by a physician and surgeon who has completed a recognized residency training program in orthopedics from a manufacturer or distributor as a result of his or her research and development of medical devices and techniques for that manufacturer or distributor. For purposes of this paragraph, "consulting fees" means those fees paid by the manufacturer or distributor to a physician and surgeon who has completed a recognized residency training program in orthopedics only for his or her ongoing services in making refinements to his or her medical devices or techniques marketed or distributed by the manufacturer or distributor, if the manufacturer or distributor does not own or control the facility to which the physician is referring the patient.

(3) For the purposes of this section, "immediate family" includes the spouse and children of the licensee, the parents of the licensee, and the spouses of the children of the licensee.

(4) "Licensee" means a physician as defined in Section 3209.3 of the Labor Code.

(5) "Licensee's office" means either of the following:

(A) An office of a licensee in solo practice.

(B) An office in which services or goods are personally provided by the licensee or by employees in that office, or personally by independent contractors in that office, in accordance with other provisions of law. Employees and independent contractors shall be licensed or certified when licensure or certification is required by law.

(6) "Office of a group practice" means an office or offices in which two or more licensees are legally organized as a partnership, professional corporation, or not-for-profit corporation, licensed pursuant to subdivision (a) of Section 1204 of the Health and Safety Code, for which all of the following apply:

(A) Each licensee who is a member of the group provides substantially the full range of services that the licensee routinely provides, including medical care, consultation, diagnosis, or treatment through the joint use of shared office space, facilities, equipment, and personnel.

(B) Substantially all of the services of the licensees who are members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as

receipts of the group, except in the case of a multispecialty clinic, as defined in subdivision (*l*) of Section 1206 of the Health and Safety Code, physician services are billed in the name of the multispecialty clinic and amounts so received are treated as receipts of the multispecialty clinic.

(C) The overhead expenses of, and the income from, the practice are distributed in accordance with methods previously determined by members of the group.

(c) It is unlawful for a licensee to enter into an arrangement or scheme, such as a cross-referral arrangement, that the licensee knows, or should know, has a principal purpose of ensuring referrals by the licensee to a particular entity that, if the licensee directly made referrals to that entity, would be in violation of this section.

(d) No claim for payment shall be presented by an entity to any individual, third party payer, or other entity for a good or service furnished pursuant to a referral prohibited under this section.

(e) No insurer, self-insurer, or other payer shall pay a charge or lien for any good or service resulting from a referral in violation of this section.

(f) A licensee who refers a person to, or seeks consultation from, an organization in which the licensee has a financial interest, other than as prohibited by subdivision (a), shall disclose the financial interest to the patient, or the parent or legal guardian of the patient, in writing, at the time of the referral or request for consultation. If a referral, billing, or other solicitation is between one or more licensees who contract with a multispecialty clinic pursuant to subdivision (*l*) of Section 1206 of the Health and Safety Code or who conduct their practice as members of the same professional corporation or partnership, and the services are rendered on the same physical premises, or under the same professional corporation or partnership name, the requirements of this subdivision may be met by posting a conspicuous disclosure statement at the registration area or by providing a patient with a written disclosure statement.

(g) A violation of subdivision (a) shall be a misdemeanor. The Medical Board of California shall review the facts and circumstances of any conviction pursuant to subdivision (a) and take appropriate disciplinary action if the licensee has committed unprofessional conduct. Violations of this section may also be subject to civil penalties of up to five thousand dollars ($5,000) for each offense, which may be enforced by the Insurance Commissioner, Attorney General, or a district attorney. A violation of subdivision (c), (d), or (e) is a public offense and is punishable upon conviction by a fine not exceeding fifteen thousand dollars ($15,000) for each violation and appropriate disciplinary action, including revocation of professional licensure, by the Medical Board of California or other appropriate governmental agency.

(h) This section shall not apply to a licensee or payer to the extent the licensee or payer is subject to Sections 139.3 and 139.31 of the Labor Code.

(i) This section shall become operative on January 1, 1995, or the operative date of any federal legislation that contains a self-referral prohibition similar to that contained in the Physician Ownership and Referral Act of 1993 that applies to all health care payers including, but not limited to, Medi-Cal, medicare, and private insurers, that is enacted prior to January 1, 1995, if the Medical Board of California notifies the Secretary of the Senate that the federal legislation has been enacted, whichever operative date is later.

SEC. 3. Section 650.02 is added to the Business and Professions Code, immediately following Section 650.01, to read:

650.02. The prohibition of Section 650.01 shall not apply to or restrict any of the following:

(a) A licensee may refer a patient for a good or service otherwise prohibited by subdivision (a) of Section 650.01 if the licensee's regular practice is located where there is no alternative provider of the service within either 25 miles or 40 minutes traveling time, via the shortest route on a paved road. A licensee who refers to or seeks consultation from an organization in which the licensee has a financial interest under this subdivision shall disclose this interest to the patient or the patient's parents or legal guardian in writing at the time of referral.

(b) A licensee who has one or more of the following arrangements with another licensee, a person, or an entity, is not prohibited from referring a patient to the licensee, person, or entity because of the arrangement:

(1) A loan between a licensee and the recipient of the referral, if the loan has commercially reasonable terms, bears interest at the prime rate or a higher rate that does not constitute usury, is adequately secured, and the loan terms are not affected by either party's referral of any person or the volume of services provided by either party.

(2) A lease of space or equipment between a licensee and the recipient of the referral, if the lease is written, has commercially reasonable terms, has a fixed periodic rent payment, has a term of one year or more, and the lease payments are not affected by either party's referral of any person or the volume of services provided by either party.

(3) A licensee's ownership of corporate investment securities, including shares, bonds, or other debt instruments that may be purchased on terms generally available to the public and that are traded on a licensed securities exchange or NASDAQ, do not base profit distributions or other transfers of value on the licensee's referral of persons to the corporation, do not have a separate class or accounting for any persons or for any licensees who may refer persons to the corporation, and are in a corporation that had, at the end of the corporation's most recent fiscal year, total gross assets exceeding one hundred million dollars ($100,000,000).

(c) (1) A licensee may refer a person to a health facility, as defined in Section 1250 of the Health and Safety Code, or to any

facility owned or leased by a health facility, if the recipient of the referral does not compensate the licensee for the patient referral, and any equipment lease arrangement between the licensee and the referral recipient complies with the requirements of paragraph (2) of subdivision (b).

(2) Nothing shall preclude this subdivision from applying to a licensee solely because the licensee has an ownership or leasehold interest in an entire health facility or an entity that owns or leases an entire health facility.

(3) A licensee may refer a person to a health facility for any service classified as an emergency under subdivision (a) or (b) of Section 1317.1 of the Health and Safety Code.

(d) A licensee may refer a person to a nonprofit corporation that provides physician services pursuant to subdivision (*l*) of Section 1206 of the Health and Safety Code if the nonprofit corporation is controlled through membership by one or more health facilities or health facility systems and the amount of compensation or other transfer of funds from the health facility or nonprofit corporation to the licensee is fixed annually, except for adjustments caused by physicians joining or leaving the groups during the year, and is not based on the number of persons utilizing goods or services specified in Section 650.01.

(e) A licensee compensated or employed by a university may refer a person for a physician service, to any facility owned or operated by the university, or to another licensee employed by the university, provided that the facility or university does not compensate the referring licensee for the patient referral. In the case of a facility that is totally or partially owned by an entity other than the university, but that is staffed by university physicians, those physicians may not refer patients to the facility if the facility compensates the referring physicians for those referrals.

(f) The prohibition of Section 650.01 shall not apply to any service for a specific patient that is performed within, or goods that are supplied by, a licensee's office, or the office of a group practice. Further, the provisions of Section 650.01 shall not alter, limit, or expand a licensee's ability to deliver, or to direct or supervise the delivery of, in-office goods or services according to the laws, rules, and regulations governing his or her scope of practice.

(g) The prohibition of Section 650.01 shall not apply to cardiac rehabilitation services provided by a licensee or by a suitably trained individual under the direct or general supervision of a licensee, if the services are provided to patients meeting the criteria for medicare reimbursement for the services.

(h) The prohibition of Section 650.01 shall not apply if a licensee is in the office of a group practice and refers a person for services or goods specified in Section 650.01 to a multispecialty clinic, as defined in subdivision (*l*) of Section 1206 of the Health and Safety Code.

(i) The prohibition of Section 650.01 shall not apply to any facility when used to provide health care services to an enrollee of a health

care service plan licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

(j) This section shall not apply to a licensee or payer to the extent the licensee or payer is subject to Sections 139.3 and 139.31 of the Labor Code.

(k) This section shall become operative on January 1, 1995, or the operative date of any federal legislation that contains a self-referral prohibition similar to that contained in the Physician Ownership and Referral Act of 1993 that applies to all health care payers including, but not limited to, Medi-Cal, medicare, and private insurers, that is enacted prior to January 1, 1995, if the Medical Board of California notifies the Secretary of the Senate that the federal legislation has been enacted, whichever operative date is later.

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 1238

An act to add Section 2097 to the Business and Professions Code, relating to medicine.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 2097 is added to the Business and Professions Code, to read:

2097. (a) A licensee shall report to the board at the time of renewal of a license any financial interest that the licensee or a member of the licensee's immediate family may have in a health-related facility. The report shall be made on a form provided by the board.

(b) For purposes of this section, all of the following shall apply:

(1) A "financial interest" includes, but is not limited to, any type of ownership interest, debt, loan, lease, compensation, remuneration, discount, rebate, refund, dividend, distribution, subsidy, or other form of direct or indirect payment, whether in money or otherwise, to a licensee or the licensee's immediate family from a health-related

facility.

(2) A "financial interest" also exists if there is an indirect relationship between a licensee and the health-related facility including, but not limited to, an arrangement whereby a licensee has an ownership interest in an entity that leases property to the health-related facility. Any financial interest transferred by a licensee to, or otherwise established in, any person or entity for the purpose of avoiding the reporting required by this section shall be deemed a financial interest of the licensee.

(3) A "financial interest" does not include a licensee's ownership of corporate investment securities, including shares, bonds, or other debt instruments that are purchased from a licensed securities broker on terms that are available to the general public through a licensed securities exchange or NASDAQ, do not base profit distributions or other transfers of value on the licensee's referral of persons to the corporation, do not have a separate class or accounting for any persons or for any licensees who may refer persons to the corporation, and are in a corporation that had, at the end of the corporation's most recent fiscal year, total gross assets exceeding one hundred million dollars ($100,000,000).

(4) "Immediate family" includes a spouse, child, or parent of a licensee, and a spouse of a child of a licensee.

(5) "Licensee" means a physician and surgeon licensed pursuant to this chapter.

(6) A "health-related facility" shall include a facility for clinical laboratory services, radiation oncology, physical therapy, physical rehabilitation, psychometric testing, home infusion therapy, diagnostic imaging, and outpatient surgery centers. "Diagnostic imaging" shall include, but is not limited to, all X-ray, computed axial tomography, magnetic resonance imaging, nuclear medicine, positron emission tomography, mammography, and ultrasound goods and services.

(c) The information reported to the board shall be available to government agencies and public or private payers.

(d) The board may impose appropriate sanctions, including the issuance of a citation and civil penalty under Section 125.9, against any licensee who fails to comply with this section.

(e) This section shall become operative on July 1, 1994.

CHAPTER 1239

An act to amend Section 425.16 of the Code of Civil Procedure, relating to actions.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 425.16 of the Code of Civil Procedure is amended to read:

425.16. (a) The Legislature finds and declares that there has been a disturbing increase in lawsuits brought primarily to chill the valid exercise of the constitutional rights of freedom of speech and petition for the redress of grievances. The Legislature finds and declares that it is in the public interest to encourage continued participation in matters of public significance, and that this participation should not be chilled through abuse of the judicial process.

(b) A cause of action against a person arising from any act of that person in furtherance of the person's right of petition or free speech under the United States or California Constitution in connection with a public issue shall be subject to a special motion to strike, unless the court determines that the plaintiff has established that there is a probability that the plaintiff will prevail on the claim. In making its determination, the court shall consider the pleadings, and supporting and opposing affidavits stating the facts upon which the liability or defense is based.

If the court determines that the plaintiff has established a probability that he or she will prevail on the claim, neither that determination nor the fact of that determination shall be admissible in evidence at any later stage of the case, and no burden of proof or degree of proof otherwise applicable shall be affected by that determination.

(c) In any action subject to subdivision (b), a prevailing defendant on a special motion to strike shall be entitled to recover his or her attorney's fees and costs. If the court finds that a special motion to strike is frivolous or is solely intended to cause unnecessary delay, the court shall award costs and reasonable attorney's fees to a plaintiff prevailing on the motion, pursuant to Section 128.5.

(d) This section shall not apply to any enforcement action brought in the name of the people of the State of California by the Attorney General, district attorney, or city attorney, acting as a public prosecutor.

(e) As used in this section, "act in furtherance of a person's right of petition or free speech under the United States or California Constitution in connection with a public issue" includes any written or oral statement or writing made before a legislative, executive, or

judicial proceeding, or any other official proceeding authorized by law; any written or oral statement or writing made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other official proceeding authorized by law; or any written or oral statement or writing made in a place open to the public or a public forum in connection with an issue of public interest.

(f) The special motion may be filed within 60 days of the service of the complaint or, in the court's discretion, at any later time upon terms it deems proper.

(g) All discovery proceedings in the action shall be stayed upon the filing of a notice of motion made pursuant to this section. The motion shall be noticed for hearing not more than 30 days after service unless the docket conditions of the court require a later hearing. The stay of discovery shall remain in effect until notice of entry of the order ruling on the motion. The court, on noticed motion and for good cause shown, may order that specified discovery be conducted notwithstanding this subdivision.

(h) On or before January 1, 1998, the Judicial Council shall report to the Legislature on the frequency and outcome of special motions made pursuant to this section, and on any other matters pertinent to the purposes of this section.

CHAPTER 1240

An act to add Chapter 3 (commencing with Section 7570) to Part 2 of Division 12 of, and to repeal Part 2 (commencing with Section 20100) of Division 20 of, the Family Code, relating to paternity.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Chapter 3 (commencing with Section 7570) is added to Part 2 of Division 12 of the Family Code, to read:

CHAPTER 3. ESTABLISHMENT OF PATERNITY BY VOLUNTARY DECLARATION

7570. The Legislature hereby finds and declares as follows:

(a) There is a compelling state interest in establishing paternity for all children. Establishing paternity is the first step toward a child support award, which, in turn, provides children with equal rights and access to benefits, including, but not limited to, social security, health insurance, survivors' benefits, military benefits, and inheritance rights. Knowledge of family medical history is often necessary for correct medical diagnosis and treatment. Additionally,

knowing one's father is important to a child's development.

(b) A simple system allowing for establishment of voluntary paternity will result in a significant increase in the ease of establishing paternity, a significant increase in paternity establishment, an increase in the number of children who have greater access to child support and other benefits, and a significant decrease in the time and money required to establish paternity due to the removal of the need for a lengthy and expensive court process to determine and establish paternity and is in the public interest.

7571. (a) On and after January 1, 1995, upon the event of a live birth, prior to an unmarried mother leaving any hospital, clinic, or other place of birth in the state, the person responsible for registering live births under Sections 10101 and 10102 of the Health and Safety Code shall provide to the natural mother and shall attempt to provide, at the place of birth, to the man identified by the natural mother as the natural father, a declaration for completion that meets the requirements of Section 7574. The declaration may be a part of the birth certificate provided that copies of the declaration are available to the parents separate from the birth certificate. The person responsible for registering the birth shall file the declaration, if completed, with the birth certificate, and shall transmit a copy of the declaration to the district attorney of the county where the birth occurred. A copy of the declaration shall be made available to each of the attesting parents. No health care provider shall be subject to any civil, criminal, or administrative liability for any negligent act or omission relative to the accuracy of the information provided, or for filing the declaration with the appropriate state or local agencies. Each district attorney shall pay to the hospital, clinic, or other place of birth that files the completed declaration with the birth certificate, as set forth in this subdivision, the sum of ten dollars ($10) for each declaration filed by it.

(b) Except as provided in Section 7575, the child of a woman and a man executing a declaration of paternity under this chapter, which meets the requirements of Section 7574, is conclusively presumed to be the man's child. The presumption under this section has the same force and effect as the presumption under Section 7540.

7572. (a) The State Department of Social Services, in consultation with the State Department of Health Services, the California Association of Hospitals and Health Systems, and other affected health provider organizations, shall work cooperatively to develop informational pamphlets and related materials to assist providers and parents in complying with this chapter.

(b) The State Department of Social Services shall, free of charge, make available to hospitals, clinics, and other places of birth any and all informational and training materials for the program under this chapter, as well as the paternity declaration form. The State Department of Social Services shall make training available to every hospital, clinic, and other place of birth no later than October 31, 1994.

(c) The State Department of Social Services shall adopt regulations, including emergency regulations, necessary to implement this chapter.

7573. "Father," as used in this chapter, has the meaning given in Section 7540.

7574. In order for a conclusive presumption of paternity to be established pursuant to this chapter, the following must appear on the declaration:

(a) The full name, place, and date of birth of the child.

(b) The full name and current address of the attesting father of the child.

(c) The full name and current address of the attesting mother of the child.

(d) The social security numbers of the attesting mother and father of the child, on a voluntary basis.

(e) A notice captioned "READ THIS BEFORE SIGNING" conspicuously placed on the declaration stating:

"(1) The purpose of this declaration is to establish paternity of your newborn child. Signing this declaration is completely voluntary. If you have any questions not answered by the written information given to you with this form, consult an attorney before signing.

(2) This form is a legal document. It establishes paternity, which is the legal identity of the natural father of a child. If you sign it, legal rights and duties are created under California law. It assures that your child receives the same rights that he or she would receive if you were married to the other parent.

(3) There is a right to a trial by the court in paternity cases. By signing this form, the man is stating that he is the father of the child named, and he understands that he is willingly, knowingly, and intelligently giving up his right to a trial on the question of paternity unless he takes legal action to challenge paternity within three years from the date of his signature on the form as attesting father or from the date of the signature of the attesting mother on the form, whichever signature is later.

(4) Blood or genetic test results which show that the man who signs this form cannot be the natural father, or that someone else is definitely the natural father, can be used in court to challenge paternity established by this form only if an action challenging paternity is filed in court within three years from the date of signature by the attesting father, or the attesting mother, whichever signature is later.

(5) If an action to challenge paternity is not filed within three years, the attesting father will be the legal father of this child regardless of any evidence, including blood or genetic test, presented to a court after three years have passed.

(6) Once the attesting father signs this form, and establishes himself as the child's father, he is legally responsible for the support of the child. This responsibility may include the payment of court-ordered child support. He is also entitled to all rights and

benefits with regard to the child that a father has when he is married to the mother of the child. These rights may include, but are not limited to, the right to physical or legal custody of the child, the right to consent to the adoption of the child, and visitation rights.

(7) Providing social security numbers is not mandatory. The numbers will be used to locate parents for the purposes of collecting child support and other benefits due your child."

(f) The signature of the father attesting under penalty of perjury under the laws of the State of California that the information provided is true and correct, that he has read and fully understands the rights he is waiving and the duties imposed on him as described in subdivision (e), and that he is executing this declaration to establish that he is the natural father of the child and understands that by acknowledging paternity of the child he accepts an obligation to provide child support under the laws of the State of California.

(g) The signature of the natural mother attesting under penalty of perjury under the laws of the State of California that the information provided is true and correct, that the man named is the natural father of her child, that she is executing this declaration to name the natural father of her child and that she fully understands that by executing this declaration she is establishing the paternal rights of the named father under the laws of the State of California, which include the right to physical and legal custody of the child, the right to consent to adoption of the child, and visitation rights.

(h) The full name and signature of the party registering the declaration and the date of registration.

(i) A statement that execution of this declaration authorizes the state to add the signator's name as the natural father of the child to the child's birth certificate.

7575. (a) (1) The presumption established by this chapter may be rebutted, by any person as provided by subdivision (a) of Section 7541, within three years from the date of execution of the declaration by the attesting father, or by the attesting mother, whichever signature is later. The two-year statute of limitations specified in subdivision (b) of Section 7541 is inapplicable for purposes of this section.

(2) The Judicial Council, in consultation with the Family Support Counsel and representatives of the Senate Judiciary Committee and the Assembly Judiciary Committee, shall develop the forms and procedures necessary to effectuate this subdivision.

(b) A presumption under this chapter shall not override a presumption arising under Section 7540. A presumption under this chapter shall override all presumptions except a presumption arising under Section 7540, including presumptions under Section 7611.

7576. (a) If the declaration is not registered by the person responsible for registering live births at the hospital, clinic, or place of birth, it may be completed by the attesting parents via notarized signatures and mailed to, or registered personally by either or both parents with, the local registrar of the State Office of Vital Statistics

at any time after the child's birth.

(b) The declaration, whether filed by the person responsible for registering live births, or by the parents at a later date, shall be attached as an addendum to the public, nonconfidential portion of the birth certificate.

7577. (a) Nothing in this chapter shall prevent any county or any hospital, clinic, or other place of birth from complying with this chapter prior to January 1, 1995.

(b) Hospitals in the Counties of Humboldt, Los Angeles, and Nevada, along with any other hospitals that choose to participate and obtain the concurrence of the State Department of Social Services, may participate in the pilot projects authorized by Section 621.1 of the Evidence Code as that section existed on December 31, 1993, until January 1, 1995. The State Department of Social Services shall report to the Legislature on or before December 31, 1994, on these pilot projects.

SEC. 2. Part 2 (commencing with Section 20100) of Division 20 of the Family Code, as added by Chapter 219 of the Statutes of 1993, is repealed.

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 1241

An act to amend Sections 62.7, 124, 129, 129.5, 139.5, 3716, 4061, 4637, 4638, 4639, 4640, 4641, 4643, 4645, 4647, and 4906 of the Labor Code, relating to workers' compensation, and making an appropriation therefor.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 62.7 of the Labor Code is amended to read:

62.7. (a) The Cal-OSHA Targeted Inspection and Consultation Fund is hereby created as a special fund in the State Treasury. Proceeds of the fund may be expended by the department, upon

appropriation by the Legislature, for the Cal-OSHA targeted inspection program as provided in Section 6314.1, the Cal-OSHA targeted consultation program as provided in subdivision (a) of Section 6354, and certifying loss control consultation services of workers' compensation insurers pursuant to Section 11745 of the Insurance Code.

(b) The fund shall consist of any money appropriated for these purposes, assessments made pursuant to this section, and fees collected pursuant to Section 11721 of the Insurance Code.

(c) Assessments shall be levied by the director only on all insured employers with a workers' compensation insurance experience rating modification of 1.25 or more and private self-insured employers with an equivalent experience rating of 1.25 or more. The director shall promulgate reasonable rules and regulations governing the manner of collection of the assessment and to determine the equivalent experience rating of 1.25 or more for self-insured employers. The rules shall require the assessment to be paid by employers expressed as a percentage of premium. In no event shall the assessment paid by insured employers be considered a premium for computation of a gross premium tax or agents' commissions. This assessment shall not be continued after the employer's experience modification or equivalent experience modification drops below 1.25.

(d) Amounts assessed pursuant to this section shall not exceed 50 percent of the amounts appropriated from the General Fund for the support of the occupational safety and health program in 1993–94 adjusted for inflation.

SEC. 1.5. Section 124 of the Labor Code is amended to read:

124. (a) In administering and enforcing this division and Division 4 (commencing with Section 3200), the division shall protect the interests of injured workers who are entitled to the timely provision of compensation.

(b) The administrative director shall advise the Industrial Medical Council, on a form promulgated by the council, whether individual qualified medical evaluators have prepared formal medical evaluations which can be satisfactorily rated by the office.

(c) Forms and notices required to be given to employees by the division or the appeals board shall be in English and Spanish.

SEC. 2. Section 129 of the Labor Code is amended to read:

129. (a) To make certain that injured workers, and their dependents in the event of their death, receive promptly and accurately the full measure of compensation to which they are entitled, the administrative director shall audit insurers, self-insured employers, and third-party administrators to determine if they have met their obligations under this code. At least half of the audit subjects shall be selected at random, and the remaining subjects shall be selected pursuant to subdivision (b). The results of audits of insurers shall be provided to the Insurance Commissioner and the results of audits of self-insured employers and third-party

administrators shall be provided to the Director of Industrial Relations. Nothing in this section shall restrict the authority of the Director of Industrial Relations or the Insurance Commissioner to audit their licensees.

(b) The administrative director shall establish priorities for audits based on information obtained from the Benefit Notice program established under Section 138.4, through information and assistance services and other factual information that indicates an insurer, self-insured employer, or third-party administrator is failing to meet its obligations under this division or Division 4 (commencing with Section 3200) or the regulations of the administrative director.

(c) If, as a result of an audit, the administrative director determines that any compensation, interest, or penalty is due and unpaid to an employee or dependent, the administrative director shall issue and cause to be served upon the insurer, self-insured employer, or third-party administrator a notice of assessment detailing the amounts due and unpaid in each case, and shall order the amounts paid to the person entitled thereto. The notice of assessment shall be served personally or by registered mail in accordance with subdivision (c) of Section 11505 of the Government Code. A copy of the notice of assessment shall also be sent to the affected employee or dependent.

If the amounts are not paid within 30 days after service of a notice of assessment, the employer shall also be liable for reasonable attorney's fees necessarily incurred by the employee or dependent to obtain amounts due. The administrative director shall advise each employee or dependent still owed compensation after this 30-day period of his or her rights with respect to the commencement of proceedings to collect the compensation owed. Amounts unpaid because the person entitled thereto cannot be located shall be paid to the Workplace Health and Safety Revolving Fund. The Director of Industrial Relations shall promulgate rules and regulations establishing standards and procedures for the payment of compensation from moneys deposited into the Workplace Health and Safety Revolving Fund whenever the person entitled thereto applies for compensation.

(d) A determination by the administrative director that an amount is or is not due to an employee or dependent shall not in any manner limit the jurisdiction or authority of the appeals board to determine the issue.

(e) Annually, commencing on April 1, 1991, the administrative director shall publish a report detailing the results of audits conducted pursuant to this section during the preceding calendar year. The report shall include the name of each insurer, self-insured employer, and third-party administrator audited during that period. For each insurer, self-insured employer, and third-party administrator audited the report shall specify the total number of files audited, the number of violations found by type and amount of compensation, interest and penalties payable, and the amount

collected for each violation.

These reports shall not identify the particular claim file which resulted in a particular violation or penalty. Except as required by this subdivision or other provisions of law, the contents of individual claim files and auditor's working papers shall be confidential. Disclosure of claim information to the administrative director pursuant to an audit shall not waive provisions of the Evidence Code relating to privilege.

SEC. 3. Section 129.5 of the Labor Code is amended to read:

129.5. (a) The administrative director shall assess an administrative penalty against an insurer, self-insured employer, or third-party administrator for any of the following:

(1) Failure to comply with the notice of assessment issued pursuant to subdivision (c) of Section 129 within 15 days of receipt.

(2) Failure to pay when due the undisputed portion of an indemnity payment, the reasonable cost of medical treatment of an injured worker, or a charge or cost of implementing an approved vocational rehabilitation plan.

(3) Failure to comply with any rule or regulation of the administrative director.

(b) The administrative director shall promulgate regulations establishing a schedule of violations and the amount of the administrative penalty to be imposed for each type of violation. The schedule shall provide for imposition of a penalty of up to one hundred dollars ($100) for each violation of the least serious type and for imposition of penalties in progressively higher amounts for more serious types of violations, with the penalty for the most serious types of violations to be set at up to five thousand dollars ($5,000) per violation. The administrative director is authorized to impose penalties pursuant to rules and regulations which give due consideration to the appropriateness of the penalty with respect to the following factors:

(1) The gravity of the violation.

(2) The good faith of the insurer, self-insured employer, or third-party administrator.

(3) The history of previous violations, if any.

(4) The frequency of the violations.

(c) The notice of penalty assessment shall be served personally or by registered mail in accordance with subdivision (c) of Section 11505 of the Government Code. The notice shall be in writing and shall describe the nature of the violation, including reference to the statutory provision or rule or regulation alleged to have been violated. The notice shall become final and the assessment shall be paid unless contested within 15 days of receipt by the insurer, self-insured employer, or third-party administrator.

(d) In addition to the penalty assessment permitted by subdivision (a), the administrative director may assess a civil penalty, not to exceed one hundred thousand dollars ($100,000), upon finding, after hearing, that an employer, insurer, or third-party

administrator for an employer has knowingly committed and has performed with a frequency as to indicate a general business practice any of the following:

(1) Induced employees to accept less than compensation due, or made it necessary for employees to resort to proceedings against the employer to secure compensation due.

(2) Refused to comply with known and legally indisputable compensation obligations.

(3) Discharged or administered compensation obligations in a dishonest manner.

(4) Discharged or administered compensation obligations in a manner as to cause injury to the public or those dealing with the employer or insurer.

Upon a second or subsequent finding, the administrative director shall refer the matter to the Insurance Commissioner or Director of Industrial Relations and request that a hearing be conducted to determine whether the certificate of authority, certificate of consent to self-insure, or certificate of consent to administer claims of self-insured employer, as the case may be, should be revoked.

(e) An insurer, self-insured employer, or third-party administrator may file a written request for a conference with the administrative director within seven days after receipt of the notice of penalty assessment issued pursuant to subdivision (a) or (d). Within 15 days of the conference, the administrative director shall issue a notice of findings and serve it upon the contesting party by registered or certified mail. Any amount found due by the administrative director shall become due and payable 30 days after receipt of the notice of findings. The 30-day period shall be tolled during any appeal. A writ of mandate may be taken from the findings to the appropriate superior court upon the execution by the contesting party of a bond to the state in the principal sum that is double the amount found due and ordered by the administrative director, on the condition that the contesting party shall pay any judgment and costs rendered against it for the amount.

(f) Nothing in this section shall create nor eliminate a civil cause of action for the employee and his or her dependents.

(g) All moneys collected under this section shall be deposited in the State Treasury and credited to the Workplace Health and Safety Revolving Fund.

SEC. 4. Section 139.5 of the Labor Code is amended to read:

139.5. (a) The administrative director shall establish a vocational rehabilitation unit, which shall include appropriate professional staff, and which shall have the following duties:

(1) To foster, review, and approve vocational rehabilitation plans developed by a qualified rehabilitation representative of the employer, insurer, state agency, or employee. Plans agreed to by the employer and employee do not require approval by the vocational rehabilitation unit unless the employee is unrepresented.

(2) To develop rules and regulations, to be promulgated by the

administrative director, providing for a procedure in which an employee may waive the services of a qualified rehabilitation representative where the employee has been enrolled and made substantial progress toward completion of a degree or certificate from a community college, California State University, or the University of California and desires a plan to complete the degree or certificate. These rules and regulations shall provide that any such waiver as well as any plan developed without the assistance of a qualified rehabilitation representative must be approved by the rehabilitation unit.

(3) To develop rules and regulations, to be promulgated by the administrative director, which would expedite and facilitate the identification, notification and referral of industrially injured employees to vocational rehabilitation services.

(4) To coordinate and enforce the implementation of vocational rehabilitation plans.

(5) To develop a fee schedule, to be promulgated by the administrative director, governing reasonable fees for vocational rehabilitation services provided on and after January 1, 1991. The initial fee schedule promulgated under this paragraph shall be designed to reduce the cost of vocational rehabilitation services by 10 percent from the level of fees paid during 1989. On or before July 1, 1994, the administrative director shall establish the maximum aggregate permissible fees that may be charged for counseling. Those fees shall not exceed four thousand five hundred dollars ($4,500) and shall be included within the sixteen thousand dollar ($16,000) cap. The fee schedule shall establish maximum aggregate permissible fees for evaluation, plan development, and job placement services.

(6) To develop standards, to be promulgated by the administrative director, for governing the timeliness and the quality of vocational rehabilitation services.

(b) The salaries of the personnel of the vocational rehabilitation unit shall be fixed by the Department of Personnel Administration.

(c) When an employee is determined to be medically eligible and chooses to participate in a vocational rehabilitation program, he or she shall continue to receive temporary disability indemnity payments only until his or her medical condition becomes permanent and stationary and, thereafter, may receive a maintenance allowance. Rehabilitation maintenance allowance payments shall begin after the employee's medical condition becomes permanent and stationary, upon a request for vocational rehabilitation services. Thereafter, the maintenance allowance shall be paid for a period not to exceed 52 weeks in the aggregate, except where the overall cap on vocational rehabilitation services can be exceeded under this section or Section 4642 or subdivision (d) or (e) of Section 4644.

The employee also shall receive additional living expenses necessitated by the vocational rehabilitation services, together with

all reasonable and necessary vocational training, at the expense of the employer, but in no event shall the expenses, counseling fees, training, maintenance allowance, and costs associated with, or arising out of, vocational rehabilitation services incurred after the employee's request for vocational rehabilitation services, except temporary disability payments, exceed sixteen thousand dollars ($16,000). The administrative director shall adopt regulations to ensure that the continued receipt of vocational rehabilitation maintenance allowance benefits is dependent upon the injured worker's regular and consistent attendance at, and participation in, his or her vocational rehabilitation training program.

(d) The amount of the maintenance allowance due under subdivision (c) shall be two-thirds of the employee's average weekly earnings at the date of injury payable as follows:

(1) The amount the employee would have received as continuing temporary disability indemnity, but not more than two hundred forty-six dollars ($246) a week for injuries occurring on or after January 1, 1990.

(2) At the employee's option, an additional amount from permanent disability indemnity due or payable, sufficient to provide the employee with a maintenance allowance equal to two-thirds of the employee's average weekly earnings at the date of injury subject to the limits specified in subdivision (a) of Section 4453 and the requirements of Section 4661.5. In no event shall temporary disability indemnity and maintenance allowance be payable concurrently.

If the employer disputes the treating physician's determination of medical eligibility, the employee shall continue to receive that portion of the maintenance allowance payable under paragraph (1) pending final determination of the dispute. If the employee disputes the treating physician's determination of medical eligibility and prevails, the employee shall be entitled to that portion of the maintenance allowance payable under paragraph (1) retroactive to the date of the employee's request for vocational rehabilitation services. These payments shall not be counted against the maximum expenditures for vocational rehabilitation services provided by this section.

(e) No provision of this section nor of any rule, regulation, or vocational rehabilitation plan developed or promulgated under this section nor any benefit provided pursuant to this section shall apply to an injured employee whose injury occurred prior to January 1, 1975. Nothing in this section shall affect any plan, benefit, or program authorized by this section as added by Chapter 1513 of the Statutes of 1965 or as amended by Chapter 83 of the Statutes of 1972.

(f) The time within which an employee may request vocational rehabilitation services is set forth in Sections 5405.5, 5410, and 5803.

(g) An offer of a job within state service to a state employee in State bargaining unit 1, 4, 15, 18, or 20 at the same or similar salary and the same or similar geographic location is a prima facie offer of vocational rehabilitation under this statute.

(h) It shall be unlawful for a qualified rehabilitation representative or rehabilitation counselor to refer any employee to any work evaluation facility or to any education or training program if the qualified rehabilitation representative or rehabilitation counselor, or a spouse, employer, coemployee, or any party with whom he or she has entered into contract, express or implied, has any proprietary interest in or contractual relationship with the work evaluation facility or education or training program. It shall also be unlawful for any insurer to refer any injured worker to any rehabilitation provider or facility if the insurer has a proprietary interest in the rehabilitation provider or facility or for any insurer to charge against any claim for the expenses of employees of the insurer to provide vocational rehabilitation services unless those expenses are disclosed to the insured and agreed to in advance.

(i) Any charges by an insurer for the activities of an employee who supervises outside vocational rehabilitation services shall not exceed the vocational rehabilitation fee schedule, and shall not be counted against the overall cap for vocational rehabilitation or the limit on counselor's fees provided for in this section. These charges shall be attributed as expenses by the insurer and not losses for purposes of insurance rating pursuant to Article 2 (commencing with Section 11730) of Chapter 3 of Division 2 of the Insurance Code.

SEC. 5. Section 3716 of the Labor Code is amended to read:

3716. (a) If the employer fails to pay the compensation required by Section 3715 to the person entitled thereto, or fails to furnish the bond required by Section 3715 within a period of 10 days after notification of the award, the award, upon application by the person entitled thereto, shall be paid by the director from the Uninsured Employers Fund, which fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, all money in the Uninsured Employers Fund is hereby continuously appropriated for this purpose and to pay the expenses of the director in administering these provisions. Refunds may be paid from the Uninsured Employers Fund for amounts remitted erroneously to the fund, or the director may authorize offsetting subsequent remittances to the fund.

(b) It is the intent of the Legislature that the Uninsured Employers Fund is created to ensure that workers who happen to be employed by illegally uninsured employers are not deprived of workers' compensation benefits, and is not created as a source of contribution to insurance carriers, or self-insured, or legally insured employers. The Uninsured Employers Fund has no liability for claims of occupational disease or cumulative injury unless no employer during the period of the occupational disease or cumulative injury during which liability is imposed under Section 5500.5 was insured for workers' compensation, was permissibly self-insured, or was legally uninsured. No employer has a right of contribution against the Uninsured Employers Fund for the liability of an illegally uninsured employer under an award of benefits for

occupational disease or cumulative injury, nor may an employee in a claim of occupational disease or cumulative injury elect to proceed against an illegally uninsured employer.

(c) The Uninsured Employers Fund has no liability to pay for medical, surgical, chiropractic, hospital, or other treatment, the liability for which treatment is imposed upon the employer pursuant to Section 4600, and which treatment has been provided or paid for by the State Department of Health Services pursuant to the California Medical Assistance Program.

(d) The Uninsured Employers Fund shall have no liability to pay compensation, nor shall it be joined in any appeals board proceeding, unless the employer alleged to be illegally uninsured shall first either have made a general appearance or have been served with the application specified in Section 3715 and with a special notice of lawsuit issued by the appeals board. The special notice of lawsuit shall be in a form to be prescribed by the appeals board, and it shall contain at least the information and warnings required by the Code of Civil Procedure to be contained in the summons issued in a civil action. The special notice of lawsuit shall also contain a notice that if the appeals board makes an award against the defendant that his or her house or other dwelling and other property may be taken to satisfy the award in a nonjudicial sale, with no exemptions from execution. The special notice of lawsuit shall, in addition, contain a notice that a lien may be imposed upon the defendant's property without further hearing and before the issuance of an award. The applicant shall identify a legal person or entity as the employer named in the special notice of lawsuit. The reasonable expense of serving the application and special notice of lawsuit, when incurred by the employee, shall be awarded as a cost. Proof of service of the special notice of lawsuit and application shall be filed with the appeals board.

(1) The application and special notice of lawsuit may be served, within or without this state, in the manner provided for service of summons in the Code of Civil Procedure. Thereafter, an employer, alleged to be illegally uninsured, shall notify the appeals board of the address at which it may be served with official notices and papers, and shall notify the appeals board of any changes in the address. No findings, order, decision, award, or other notice or paper need be served in this manner on an employer, alleged to be illegally uninsured, who has been served as provided in this section, and who has not filed an answer, otherwise made a general appearance, or furnished the appeals board with its address. The findings, orders, decisions, awards, or other notice or paper may be mailed to the employer as the board, by regulation, may provide.

(2) Notwithstanding paragraph (1), if the employer alleged to be illegally uninsured has not filed an answer, otherwise made a general appearance, or furnished the appeals board with its address, the appeals board shall serve any findings, order, decision, award, or other notice or paper on the employer by mail at the address the

appeals board has for the employer. The failure of delivery at that address or the lack of personal service on an employer who has been served as provided in this section, of these findings, order, decision, award, or other notice or paper, shall not constitute grounds for reopening or invalidating any appeals board action pursuant to Section 5506, or for contesting the validity of any judgment obtained under Section 3716 or 5806, a lien under Section 3720, or a settlement under subdivision (e) of Section 3715.

(3) The board, by regulation, may provide for service procedures in cases where a request for new and further benefits is made after the issuance of any findings and award and a substantial period of time has passed since the first service or attempted service.

(4) The director, on behalf of the Uninsured Employers Fund, shall furnish information as to the identities, legal capacities, and addresses of uninsured employers known to the director upon request of the board or upon a showing of good cause by the employee or the employee's representative. Good cause shall include a declaration by the employee's representative, filed under penalty of perjury, that the information is necessary to represent the employee in proceedings under this division.

SEC. 6. Section 4061 of the Labor Code is amended to read:

4061. (a) Together with the last payment of temporary disability indemnity, the employer shall, in a form prescribed by the administrative director pursuant to Section 138.4, provide the employee one of the following:

(1) Notice either that no permanent disability indemnity will be paid because the employer alleges the employee has no permanent impairment or limitations resulting from the injury or notice of the amount of permanent disability indemnity determined by the employer to be payable. The notice shall include information concerning how the employee may obtain a formal medical evaluation pursuant to subdivision (c) if he or she disagrees with the position taken by the employer. If the employer determines permanent disability indemnity is payable, the employer shall advise the employee of the amount determined payable and the basis on which the determination was made and whether there is need for continuing medical care.

(2) Notice that permanent disability indemnity may be or is payable, but that the amount cannot be determined because the employee's medical condition is not yet permanent and stationary. The notice shall advise the employee that his or her medical condition will be monitored until it is permanent and stationary, at which time the necessary evaluation will be performed to determine the existence and extent of permanent impairment and limitations for the purpose of rating permanent disability and to determine the need for continuing medical care, or at which time the employer will advise the employee of the amount of permanent disability indemnity the employer has determined to be payable. If an employee is provided notice pursuant to this paragraph and the

employer later takes the position that the employee has no permanent impairment or limitations resulting from the injury, or later determines permanent disability indemnity is payable, the employer shall in either event, within 14 days of the determination to take either position, provide the employee with the notice specified in paragraph (1).

(b) Each notice required by subdivision (a) shall describe the administrative procedures available to the injured employee and advise the employee of his or her right to consult an information and assistance officer or an attorney. It shall contain the following language:

"Should you decide to be represented by an attorney, you may or may not receive a larger award, but, unless you are determined to be ineligible for an award, the attorney's fee will be deducted from any award you might receive for disability benefits. The decision to be represented by an attorney is yours to make, but it is voluntary and may not be necessary for you to receive your benefits."

(c) If the parties do not agree to a permanent disability rating based on the treating physician's evaluation or the assessment of need for continuing medical care, and the employee is represented by an attorney, the employer shall seek agreement with the employee on a physician to prepare a comprehensive medical evaluation of the employee's permanent impairment and limitations and any need for continuing medical care resulting from the injury. If no agreement is reached within 10 days, or any additional time not to exceed 20 days agreed to by the parties, the parties may not later select an agreed medical evaluator. Evaluations of an employee's permanent impairment and limitations obtained prior to the period to reach agreement shall not be admissible in any proceeding before the appeals board. After the period to reach agreement has expired, either party may select a qualified medical evaluator to conduct the comprehensive medical evaluation. Neither party may obtain more than one comprehensive medical-legal report, provided, however, that any party may obtain additional reports at their own expense.

(d) If the parties do not agree to a permanent disability rating based on the treating physician's evaluation, and if the employee is not represented by an attorney, the employer shall not seek agreement with the employee on a physician to prepare an additional medical evaluation. The employer shall immediately provide the employee with a form prescribed by the medical director with which to request assignment of a panel of three qualified medical evaluators. The employee shall select a physician from the panel to prepare an independent medical evaluation of the employee's permanent impairment and limitations and any need for continuing medical care resulting from the injury.

The report of the qualified medical evaluator and the reports of the treating physician or physicians shall be the only admissible reports and shall be the only reports obtained by the employee or the employer on the issues subject to this section. If the employee has

received a comprehensive medical-legal evaluation under this subdivision, and he or she later becomes represented by an attorney, he or she shall not be entitled to an additional evaluation. In no event shall the employer be entitled to obtain another report in these cases.

(e) The represented employee shall be responsible for making an appointment with an agreed medical evaluator.

(f) The unrepresented employee shall be responsible for making an appointment with a qualified medical evaluator selected from a panel of three qualified medical evaluators. The evaluator shall give the employee, at the appointment, a brief opportunity to ask questions concerning the evaluation process and the evaluator's background. The unrepresented employee shall then participate in the evaluation as requested by the evaluator unless the employee has good cause to discontinue the evaluation. For purposes of this subdivision, "good cause" shall include evidence that the evaluator is biased against the employee because of his or her race, sex, national origin, religion, or sexual preference or evidence that the evaluator has requested the employee to submit to an unnecessary medical examination or procedure. If the unrepresented employee declines to proceed with the evaluation, he or she shall have the right to a new panel of three qualified medical evaluators from which to select one to prepare a comprehensive medical evaluation. If the appeals board subsequently determines that the employee did not have good cause to not proceed with the evaluation, the cost of the evaluation shall be deducted from any award the employee obtains.

(g) Upon selection or assignment pursuant to subdivision (c) or (d), the medical evaluator shall perform a comprehensive medical evaluation according to the procedures promulgated by the Industrial Medical Council under paragraphs (2) and (3) of subdivision (j) of Section 139.2 and summarize the medical findings on a form prescribed by the Industrial Medical Council. The comprehensive medical evaluation shall address all contested medical issues arising from all injuries reported on one or more claim forms prior to the date of the employee's initial appointment with the medical evaluator. If, after a comprehensive medical evaluation is prepared, the employer or the employee subsequently objects to any new medical issue, the parties, to the extent possible, shall utilize the same medical evaluator who prepared the previous evaluation to resolve the medical dispute.

(h) Except as provided in Section 139.3, the medical evaluator may obtain consultations from other physicians who have treated the employee for the injury whose expertise is necessary to provide a complete and accurate evaluation.

(i) The qualified medical evaluator who has evaluated an unrepresented employee shall serve the comprehensive medical evaluation and the summary form on the employee, employer, and the administrative director. The unrepresented employee or the employer may submit the treating physician's evaluation for the calculation of a permanent disability rating. Within 20 days of receipt

of the comprehensive medical evaluation, the administrative director shall calculate the permanent disability rating according to Section 4660 and serve the rating on the employee and employer.

(j) Any comprehensive medical evaluation concerning an unrepresented employee which indicates that part or all of an employee's permanent impairment or limitations may be subject to apportionment pursuant to Sections 4663 or 4750 shall first be submitted by the administrative director to a workers' compensation judge who may refer the report back to the qualified medical evaluator for correction or clarification if the judge determines the proposed apportionment is inconsistent with the law.

(k) Within 30 days of receipt of the rating, if the employee is unrepresented, the employee or employer may request that the administrative director reconsider the recommended rating or obtain additional information from the treating physician or medical evaluator to address issues not addressed or not completely addressed in the original comprehensive medical evaluation or not prepared in accord with the procedures of the Industrial Medical Council promulgated under paragraph (2) or (3) of subdivision (j) of Section 139.2. This request shall be in writing, shall specify the reasons the rating should be reconsidered, and shall be served on the other party. If the administrative director finds the comprehensive medical evaluation is not complete or not in compliance with the required procedures, the administrative director shall return the report to the treating physician or qualified medical evaluator for appropriate action as the administrative director instructs. Upon receipt of the treating physician's or qualified medical evaluator's final comprehensive medical evaluation and summary form, the administrative director shall recalculate the permanent disability rating according to Section 4660 and serve the rating, the comprehensive medical evaluation, and the summary form on the employee and employer.

(*l*) If a comprehensive medical evaluation from the treating physician or an agreed medical evaluator or a qualified medical evaluator selected from a three-member panel resolves any issue so as to require an employer to provide compensation, the employer shall commence the payment of compensation or promptly commence proceedings before the appeals board to resolve the dispute for adjudication of claim. If the employee and employer agree to a stipulated findings and award as provided under Section 5702 or to compromise and release the claim under Chapter 2 (commencing with Section 5000) of Part 3, or if the employee wishes to commute the award under Chapter 3 (commencing with Section 5100) of Part 3, the appeals board shall first determine whether the agreement or commutation is in the best interests of the employee and whether the proper procedures have been followed in determining the permanent disability rating. The administrative director shall promulgate a form to notify the employee, at the time of service of any rating under this section, of the options specified in

this subdivision, the potential advantages and disadvantages of each option, and the procedure for disputing the rating.

(m) No issue relating to the existence or extent of permanent impairment and limitations or the need for continuing medical care resulting from the injury may be the subject of a declaration of readiness to proceed of claim unless there has first been a medical evaluation by a treating physician or an agreed or qualified medical evaluator. With the exception of an evaluation or evaluations prepared by the treating physician or physicians, no evaluation of permanent impairment and limitations or need for continuing medical care resulting from the injury shall be obtained prior to service of the comprehensive medical evaluation on the employee and employer if the employee is unrepresented, or prior to the attempt to select an agreed medical evaluator if the employee is represented. Evaluations obtained in violation of this prohibition shall not be admissible in any proceeding before the appeals board. However, the testimony, records, and reports offered by the treating physician or physicians who treated the employee for the injury and comprehensive medical evaluations prepared by a qualified medical evaluator selected by an unrepresented employee from a three-member panel shall be admissible.

SEC. 7. Section 4637 of the Labor Code is amended to read:

4637. (a) Within 10 days after the employee is medically eligible under subdivision (c) of Section 4636, or the employer receives a physician's report, or knowledge of a physician's opinion, indicating an employee is medically eligible, the employer shall notify the employee of his or her medical eligibility for vocational rehabilitation services. The notice shall be in writing, in the form and manner prescribed by the administrative director, with a copy forwarded to the vocational rehabilitation unit . The notice shall include all of the following:

(1) An explanation of vocational rehabilitation services available to the employee, including the maintenance allowance payable under Section 139.5 and the effect of any delay in the acceptance of vocational rehabilitation services.

(2) Instructions as to how the employee may apply for vocational rehabilitation services.

(3) Notice that failure to apply within 90 days of receipt of notice of medical eligibility may terminate the employee's entitlement to vocational rehabilitation services, unless the treating physician determines that the employee is medically unable to participate in the provision of vocational rehabilitation services except as otherwise provided by Section 5410.

(4) Notice of the employee's right to an agreed upon qualified rehabilitation representative and to request an evaluation of vocational feasibility prior to any acceptance or rejection of vocational rehabilitation services and the right to request a change of qualified rehabilitation representative pursuant to Section 4640.

(5) Notice that vocational rehabilitation services may not be

settled or otherwise converted to cash payments.

Immediately thereafter, unless the employee's medical condition precludes participation or the employee declines to accept vocational rehabilitation services, the employer shall assign a qualified rehabilitation representative, selected in agreement with the employee, to determine if the employee meets the vocational feasibility requirements of paragraph (2) of subdivision (a) of Section 4635. If agreement cannot be reached, a qualified rehabilitation representative shall be selected pursuant to Section 4640.

(b) If an employee is notified of his or her potential entitlement to vocational rehabilitation services pursuant to subdivision (a) and it is subsequently determined that the employee is not a qualified injured worker, the employer shall notify the employee, in the form and manner prescribed by the administrative director, that he or she is not entitled to further vocational rehabilitation services, the reasons therefor, and the procedure to be followed in contesting the determination.

SEC. 8. Section 4638 of the Labor Code is amended to read:

4638. (a) If the employee is determined to be a qualified injured worker, and the employer notifies the injured worker, pursuant to paragraph (1) of subdivision (d) of Section 4636 that the employer will be unable to provide modified or alternative work to that injured worker, the qualified rehabilitation representative and the employee, jointly, shall develop an agreed-upon vocational rehabilitation plan.

Vocational rehabilitation plans which utilize an employee's transferable skills and experience shall be preferable to plans that propose training for an occupation in which the employee has no skills or experience.

An insured employer in whose employment the injury occurred shall receive a refund, payable in the same manner as a return of a standard insurance premium, from the insurer that provided the security for the payment of compensation on the date of injury when the employer, pursuant to Section 4644, returns the qualified injured worker to modified or alternative work at the employer's place of employment for 12 consecutive months. The refund shall be equal to the standard premium computed on the wages paid by the employer to the qualified injured worker during the 12-month period and shall be calculated as follows: multiply the workers' compensation insurance premium rate times the wages reported for workers' compensation insurance for the qualified injured worker during that 12-month period. For this calculation, the workers' compensation insurance rate shall be the insurance premium rate or rates per one hundred dollars ($100) of payroll which were applicable to the payroll reported for the qualified injured worker during that 12-month period, modified by the experience modification factor or factors, if any, which were applicable to the employer during that 12-month period. During and after the 12-month period, the

qualified injured worker shall be protected against discrimination pursuant to Section 132a.

(b) Within 90 days after determination of the employee's vocational feasibility, the employer shall do either of the following:

(1) Submit a vocational rehabilitation plan agreed to by the employee to the administrative director for review and approval.

(2) Request the administrative director to resolve any dispute concerning the provision of vocational rehabilitation services.

SEC. 9. Section 4639 of the Labor Code is amended to read:

4639. (a) If the employer fails to assign a qualified rehabilitation representative as required by Section 4636, fails to notify the employee of possible entitlement to these services pursuant to Section 4637, or fails to provide timely vocational rehabilitation services, the employee may request the administrative director to authorize the provision of vocational rehabilitation services at the expense of the employer. The administrative director shall immediately advise the employer of the receipt of the request.

(b) If the employer, within 20 days of receipt of the administrative director's notification, fails either to agree to provide vocational rehabilitation services or to demonstrate that the employee is not a qualified injured worker, the administrative director shall authorize the provision of vocational rehabilitation services through a qualified rehabilitation representative of the employee's choice or, at the employee's request, through an independent vocational evaluator.

SEC. 10. Section 4640 of the Labor Code is amended to read:

4640. Nothing in this article shall preclude the employee and the employer from agreeing to a change of a qualified rehabilitation representative. If agreement cannot be reached, the employee or employer may request the administrative director to assign an independent vocational evaluator to provide vocational rehabilitation services if it finds it to be in the best interests of the employee.

SEC. 11. Section 4641 of the Labor Code is amended to read:

4641. Nothing in this article shall require an employee to accept the provision of vocational rehabilitation services. The administrative director shall prescribe by rule and regulation the form and manner by which an employee may decline participation.

The rules and regulations shall require all of the following:

(a) A complete written description of the employee's rights, benefits, and protections to enable the employee to make an informed decision concerning the declination of vocational rehabilitation services.

(b) Notice of the employee's right to consult with the administrative director or an attorney.

(c) The declination of vocational rehabilitation services shall be in writing in 10-point boldface type and shall be signed by the employee and his or her representative, if any.

(d) The written information and declination form shall be bilingual as needed.

SEC. 12. Section 4643 of the Labor Code is amended to read:

4643. If the employee unreasonably fails to cooperate in the provision of vocational rehabilitation services, unreasonably fails to cooperate in the development or implementation of a vocational rehabilitation plan, or unreasonably fails to cooperate in completing an approved vocational rehabilitation plan, the employee shall not be entitled to receive that portion of the maintenance allowance payable under paragraph (1) of subdivision (d) of Section 139.5 for the period of unreasonable failure. The employer shall provide the employee with written notice of the employer's intention to withhold payment, the reasons therefor, and the employee's right to object thereto within 10 days of the date the notice was received or served.

If the employee objects to the employer's stated intention to withhold payment, the administrative director shall conduct an expedited conference to determine if the employee is entitled to receive the payments. A copy of the determination shall be served by certified mail on the employee and employer within 10 days of the employee's objection. The employer shall continue payment of that portion of the maintenance allowance due under paragraph (1) of subdivision (d) of Section 139.5 until receipt of the determination.

SEC. 13. Section 4645 of the Labor Code is amended to read:

4645. (a) (1) For unrepresented employees, all disputed matters regarding the provision of vocational rehabilitation services shall be submitted initially to the administrative director for his or her recommendation except as otherwise provided in this section.

(2) For represented employees, all disputed matters shall be submitted to arbitration pursuant to Part 3.5 (commencing with Section 5270), except as otherwise provided in this section and Section 4643.

(b) Where the question of entitlement to vocational rehabilitation services is first raised before a workers' compensation judge and there are good faith issues which, if resolved against the employee, would defeat his or her right to all compensation, the judge shall determine the issues and, if appropriate, refer the question of entitlement to vocational rehabilitation services to the administrative director or arbitration for recommendation.

(c) Where the question of entitlement to vocational rehabilitation services is first raised before a workers' compensation judge and there are no issues which would bar the employee's right to compensation, the judge shall refer the question of entitlement to the vocational rehabilitation services to the administrative director or arbitration for recommendations before entering a finding, decision, or award on the issue of vocational rehabilitation.

(d) Any determination or recommendation of the administrative director or by the arbitrator shall be binding unless a petition is filed with the appeals board within 20 days after service of the determination or recommendation. Nothing in this section shall affect an employee's rights pursuant to Sections 5405.5, 5410, and

5803.

SEC. 14. Section 4647 of the Labor Code is amended to read:

4647. The administrative director shall appoint an advisory committee to assist the vocational rehabilitation unit in recommending forms, procedures, and rules and regulations consistent with the effective administration of this article. Members of the advisory committee shall include two representatives each of employees, employers, insurers, and providers of vocational rehabilitation services.

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 administrative director 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."

(g) The employee, the insurer, the employer, and the attorneys for each party shall sign and file with the board a statement, with the application or answer, under penalty of perjury that they have not violated Section 139.3 and that they have not offered, delivered, received, or accepted any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for any referred examination or evaluation.

SEC. 16. (a) The sum of four million dollars ($4,000,000) is hereby transferred from the General Fund to the Cal-OSHA Targeted Inspection and Consultation Fund as a loan for the purposes of Section 62.7 of the Labor Code. The amount of the loan, 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, shall be repaid to the General Fund by June 30, 1995, from assessments levied upon employers pursuant to subdivision (c) of Section 62.7 of the Labor Code.

(b) The sum of four million dollars ($4,000,000) is hereby appropriated from the Cal-OSHA Targeted Inspection and Consultation Fund to the Department of Industrial Relations for the Cal-OSHA targeted inspection program as provided in Section 6314.1 of the Labor Code, the Cal-OSHA targeted consultation program as provided in subdivision (a) of Section 6354 of the Labor Code, for certifying loss control consultation services of workers' compensation insurers pursuant to Section 11721 of the Insurance Code, and for matters related to the implementation of the 1993 workers' compensation reforms.

CHAPTER 1242

An act to amend Sections 676.8, 11721, 11730, 11732, 11733, 11734, 11737, 11750, 11750.1, 11751.35, 11751.5, and 11759.1 of, to amend and repeal Section 11752.8 of, and to add Section 11740 to, the Insurance Code, to amend Sections 62.7, 138.6, 139, 139.2, 139.3, 139.31, 139.5, 3208.3, 3217, 3600, 3701, 3762, 3820, 4060, 4061, 4062, 4600.3, 4600.5, 4614, 4614.1, 4638, 4644, 5158, 5307.1, 5307.6, 5401, 5404.5, and 5813 of, and to amend and repeal Section 4064 of, the Labor Code, to amend Section 75 of Chapter 121 of the Statutes of 1993, and to amend Section 7 of Chapter 228 of the Statutes of 1993, relating to workers' compensation, and making an appropriation therefor.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 676.8 of the Insurance Code, as added by Chapter 121 of the Statutes of 1993, is amended to read:

676.8. (a) This section applies only to policies of workers' compensation insurance.

(b) After a policy is in effect, no notice of cancellation shall be effective unless it complies with the notice requirements of this section and is based upon the occurrence, after the effective date of the policy, of one or more of the following:

(1) The policyholder's failure to make any workers' compensation insurance premium payment when due.

(2) The policyholder's failure to report payroll, to permit the insurer to audit payroll as required by the terms of the policy or of a previous policy issued by the insurer, or to pay any additional premium as a result of a audit of payroll as required by the terms of the policy or of a previous policy.

(3) The policyholder's material failure to comply with federal or state safety orders or written recommendations of the insurer's designated loss control representative.

(4) A material change in ownership or any change in the policyholder's business or operations that materially increases the hazard for frequency or severity of loss, requires additional or different classifications for premium calculations, or contemplates an activity excluded by the insurer's reinsurance treaties.

(5) Material misrepresentation by the policyholder or its agent.

(6) Failure to cooperate with the insurer in the insurer's investigation of a claim.

(c) A policy shall not be canceled for the conditions specified in paragraph (1), (2), (5), or (6) of subdivision (b) except upon 10 days' written notice to the policyholder by the insurer. A policy shall not be canceled for the conditions specified in paragraph (3) or (4) of subdivision (b) except upon 30 days' written notice to the policyholder by the insurer, provided that no notice is required if an insured and insurer consent to the cancellation and reissuance of a policy effective upon a material change in ownership or operations of the insured. If the policyholder remedies the condition to the insurer's satisfaction within the specified time period, the policy shall not be canceled by the insurer.

(d) Nothing in this section shall preclude, while policies are in force, changes in the premium rate required or authorized by law, regulation, or order of the commissioner, or otherwise agreed to between the policyholder and insurer.

(e) Any policy written for a term longer than one year, or any policy with no fixed expiration date, shall be considered as if written for successive policy periods of one year.

SEC. 2. Section 11721 of the Insurance Code, as added by Chapter 121 of the Statutes of 1993, is amended to read:

11721. (a) Any insurer desiring to write workers' compensation

insurance shall maintain or provide occupational safety and health loss control consultation services certified by the Director of Industrial Relations. The director may fix and collect fees to recover the costs for certifying the loss control consultation services and receiving and reviewing the annual health and safety loss control plan for targeting employers with the greatest workers' compensation losses and the most significant and preventable health and safety hazards. All fees shall be deposited in the Cal-OSHA Targeted Inspection and Consultation Fund as defined in Section 62.7 of the Labor Code. The insurer may employ qualified personnel to provide these services or provide the services through another entity that has been certified by the director.

(b) The program of an insurer for furnishing loss control consultation services shall be adequate to meet minimum standards prescribed by the director. The services shall include the conduct of workplace surveys to identify health and safety problems, review of employer injury records with appropriate personnel, and development of plans to improve employer health and safety loss records, including injury and prevention programs required pursuant to Section 6401.7 of the Labor Code. At the time that an insurance policy is issued and annually thereafter, the insurer shall provide each insured employer with a written description of the consultation services together with a notice that the services are available at no additional charge to the employer.

(c) The insurer shall not charge any fee in addition to the insurance premium for safety and health loss control consultation services.

(d) Each insurer shall submit to the director, in a form prescribed by the director, an annual health and safety loss control plan for targeting employers with the greatest workers' compensation losses and the most significant and preventable health and safety hazards. The plan shall include a budget and identify the insurer's methodology for selecting the employers and the number, type, and size of employers who will be targeted. The plan shall be accompanied by a description of the insurer's safety and health loss control activities for the prior year, including, but not limited to, costs, the number, type, and size of businesses served, and any additional information required by the director. The information provided to the director under this subdivision shall remain confidential except for aggregate statistical data. The director shall develop guidelines to assist insurers to identify the employers with the highest preventable health and safety hazards.

(e) Nothing in this section shall be construed to require insurers to provide loss control services to places of employment that do not pose significant preventable hazards to workers.

SEC. 3. Section 11730 of the Insurance Code, as added by Chapter 228 of the Statutes of 1993, is amended to read:

11730. The following definitions govern the construction and meaning of the terms used in this article:

(a) "Classification system" or "classification" means a plan, system, or arrangement for recognizing differences in exposure to hazards among industries, occupations, or operations of insurance policyholders.

(b) "Expenses" means that portion of any rate attributable to acquisition, field supervision, collection expenses, general expenses, taxes, licenses, and fees.

(c) "Experience rating" means a rating procedure utilizing past insurance experience of the individual policyholder to forecast future losses by measuring the policyholder's loss experience against the loss experience of policyholders in the same classification to produce a prospective premium credit, debit, or unity modification.

(d) "Loss trending" means any procedure for projecting developed losses to the average date of loss for the period during which the policies are to be effective.

(e) "Market" means the interaction between buyers and sellers of workers' compensation insurance within this state pursuant to the provisions of this article.

(f) "Pure premium rate" means that portion of the rate which represents the loss cost per unit of exposure, including loss adjustment expense.

(g) "Rate" means the cost of insurance per exposure base unit, prior to any application of individual risk variations based on loss or expenses considerations and does not include minimum premiums.

(h) "Rating organization" means an entity licensed by the commissioner pursuant to Section 11751.1.

(i) "Statistical plan" means the plan, system, or arrangement used in collecting data.

(j) "Supplementary rate information" means any manual or plan of rates, classification system, rating schedule, minimum premium, policy fee, rating rule, rating plan, and any other similar information needed to determine the applicable premium for an insured.

(k) "Supporting information" means the experience and judgment of the filer and the experience or data of other insurers or organizations relied on by the filer, the interpretation of any statistical data relied on by the filer, descriptions of methods used in making the rates, and any other similar information required to be filed by the commissioner.

SEC. 4. Section 11732 of the Insurance Code, as added by Chapter 228 of the Statutes of 1993, is amended to read:

11732. Rates shall not, if continued in use, tend to impair or threaten the solvency of an insurer or tend to create a monopoly in the market. For the purpose of this section, the rates of any individual insurer, other than the State Compensation Insurance Fund, are presumed to create a monopoly in the market if the insurer has a market share, based on percentage of statewide workers' compensation premium, equivalent to 20 percent or more of the premium written by all insurers other than the State Compensation Insurance Fund.

SEC. 5. Section 11733 of the Insurance Code, as added by Chapter 228 of the Statutes of 1993, is amended to read:

11733. In determining whether rates comply with Section 11732, the following criteria shall apply:

(a) Due consideration may be given to past and prospective loss and expenses experience within this state, to catastrophe hazards and contingencies, to events or trends within this state, to loadings for leveling premium rates over time or for dividends or savings to be allowed or returned by insurers to their policyholders, members or subscribers, and to all other relevant factors, including judgment. For purposes of determining whether rates would tend to impair or threaten the solvency of an insurer, the commissioner shall consider the insurer's experience in other states.

(b) The expense provisions included in the rates to be used by an insurer shall reflect the operating methods of the insurer and, so far as is credible, its own actual and anticipated expense experience.

(c) The rates may contain a provision for contingencies and an allowance permitting a reasonable profit. In determining the reasonableness of profit, consideration should be given to all investment income attributable to premiums and the reserves associated with those premiums.

SEC. 6. Section 11734 of the Insurance Code, as added by Chapter 228 of the Statutes of 1993, is amended to read:

11734. (a) Every workers' compensation insurer shall adhere to a uniform experience rating plan filed with the commissioner by a rating organization designated by the commissioner and subject to his or her disapproval.

(b) The commissioner shall designate a rating organization to assist him or her in gathering, compiling, and reporting relevant statistical information, and to develop a classification system. An insurer may develop its own classification system upon which a rate may be made or adopt the classification system developed by the designated rating organization; provided, however, that any classification system developed by an insurer must be filed with the commissioner 30 days prior to its use. The commissioner shall disapprove a classification system filed by an insurer pursuant to this section if the insurer fails to demonstrate that the data thereby produced can be reported consistent with the uniform statistical plan or the classification system developed by the rating organization. Every workers' compensation insurer shall record and report its workers' compensation experience to the designated rating organization as set forth in the uniform statistical plan approved by the commissioner.

(c) The designated rating organization shall develop and file manual rules, subject to the approval of the commissioner, reasonably related to the recording and reporting of data pursuant to the uniform statistical plan, uniform experience rating plan, and such classification systems as may be in effect. Every workers' compensation insurer shall adhere to the approved manual rules and

experience rating plan in writing and reporting its business. No insurer shall agree with any other insurer or with a rating organization to adhere to manual rules which are not reasonably related to the recording and reporting of data pursuant to the uniform statistical plan or classification system developed by the rating organization.

SEC. 7. Section 11737 of the Insurance Code, as added by Chapter 228 of the Statutes of 1993, is amended to read:

11737. (a) The commissioner may disapprove a rate if the insurer fails to comply with the filing requirements under Section 11735.

(b) If the commissioner believes that rates may violate any of the requirements of this article, he or she shall call a hearing prior to any disapproval. The commissioner shall disapprove a rate if he or she finds that the rate would, if continued in use, tend to impair or threaten the solvency of an insurer or tend to create a monopoly in the market pursuant to Section 11732.

(c) Every insurer or advisory organization shall provide within this state reasonable means whereby any person aggrieved by the application of its filings may be heard on written request to review the manner in which the rating system has been applied in connection with the insurance afforded or offered. If the insurer or advisory organization fails to grant or reject the request within 30 days, the applicant may proceed in the same manner as if the application had been rejected. Any party affected by the action of the insurer or advisory organization on the request may, within 30 days after written notice of the action, appeal to the commissioner who, after a hearing held upon not less than 10 days' written notice to the appellant and to the insurer or advisory organization, may affirm, modify, or reverse such action.

(d) If the commissioner disapproves a rate, the commissioner shall issue an order specifying in what respects it fails to meet the requirements of this article and stating when within a reasonable period thereafter such rate shall be discontinued for any policy issued or renewed after a date specified in the order. The order shall be issued within 30 days after the close of the hearing or within such reasonable time extension as the commissioner may fix. The order may include a provision for premium adjustment for the period after the effective date of the order for policies in effect on that date.

(e) Whenever an insurer has no legally effective rates as a result of the commissioner's disapproval of rates or other act, the commissioner shall on request of the insurer specify interim rates for the insurer that are adequate to protect the interests of all parties and may order that a specified portion of the premiums be placed in an escrow account approved by him or her. When new rates become legally effective, the commissioner shall order the escrowed funds or any overcharge in the interim rates to be distributed appropriately, except that refunds of less than ten dollars ($10) per policyholder shall not be required.

SEC. 7.5. Section 11740 is added to Article 2 (commencing with Section 11730) of Chapter 3 of Part 3 of Division 2 of the Insurance Code, as added by Section 2 of Chapter 228 of the Statutes of 1993, to read:

11740. Rates and supplementary rate information filed for use in this state pursuant to this article and Article 3 (commencing with Section 11750), as added and amended by Chapter 228 of the Statutes of 1993, shall not be effective prior to the first normal anniversary rating date of a policy on or after January 1, 1995. Rates, any rating plan or plans, and policy forms issued or approved prior to January 1, 1995, shall remain in effect only until the first normal anniversary rating date on or after January 1, 1995, as determined by a licensed rating organization pursuant to rules issued or approved by the commissioner in effect on July 16, 1993. Prior to January 1, 1995, no policy may be issued or renewed for a term of less than one year for the purpose of changing the normal anniversary date of the policy or the preceding policy. No policy may be canceled, amended, or rewritten for the purpose of avoiding this section.

Notwithstanding Section 7 of Chapter 228 of the Statutes of 1993, this section shall become operative January 1, 1994.

SEC. 8. Section 11750 of the Insurance Code is amended to read:

11750. The purpose of this article is to promote the public welfare by regulating concert of action between insurers in collecting and tabulating rating information and other data that may be helpful in the making of adequate pure premium rates for workers' compensation insurance and for employers liability insurance incidental thereto and written in connection therewith for all admitted insurers and in submitting them to the commissioner for approval; to authorize and regulate the existence and cooperation of qualified rating organizations to one of which each workers' compensation insurer shall belong; to authorize and regulate cooperation between insurers, rating organizations and advisory organizations in ratemaking and other related matters to the end that the purposes of this chapter may be complied with and carried into effect.

SEC. 9. Section 11750.1 of the Insurance Code, as amended by Chapter 228 of the Statutes of 1993, is amended to read:

11750.1. As used in this article, unless a different meaning is manifest, the term:

(a) "Insurer" means every insurer authorized to transact workers' compensation insurance and employer's liability insurance incidental thereto and written in connection therewith in this state, including the State Compensation Insurance Fund;

(b) "Rating organization" means any organization which has as its primary object or purpose the collecting of loss and expense statistics and other statistical information and data, the making of pure premium rates and those rating plans authorized by Section 11734 for workers' compensation insurance and employer's liability insurance incidental thereto and written in connection therewith and

presenting them to the commissioner for approval;

(c) "Insurance" means workers' compensation insurance and employer's liability insurance incidental thereto and written in connection therewith;

(d) "Willful" or "willfully" in relation to an act or omission which constitutes a violation of this article means with actual knowledge or belief that such act or omission constitutes such violation and with specific intent to commit such violation.

(e) "Advisory organization" means every person, group or organization, other than an insurer, whether located within or without this state, which prepares policy forms or underwriting rules incidental to or in connection with workers' compensation insurance and employer's liability insurance incidental thereto and written in connection therewith or which collects and furnishes to admitted insurers or rating organizations loss statistics or other statistical information and data relating to workers' compensation insurance and employer's liability insurance incidental thereto and written in connection therewith and acts in an advisory capacity to such insurers or rating organizations as distinguished from a ratemaking capacity. No duly authorized attorney at law acting in the usual course of his profession shall be deemed to be an advisory organization.

(f) "Employer's liability insurance incidental thereto and written in connection therewith" means insurance of any liability of employers for injuries to, or death of, employees arising out of, and in the course of, employment when this insurance is incidental to, and written in connection with, the workers' compensation insurance issued to the same employer and covering the same employer interests.

SEC. 10. Section 11751.35 of the Insurance Code, as amended by Chapter 121 of the Statutes of 1993, is amended to read:

11751.35. (a) Four members of the public, two representing organized labor and two representing insured employers, appointed pursuant to subdivision (b) of Section 11751.3, shall be entitled to serve on the managing or governing committee of a rating organization licensed under this article. The public members shall be entitled to vote on all issues involving pure premium rates, classifications, rating plans, rating systems, manual rules and policy, and endorsement forms which are properly brought before the committee.

(b) In the event one or more public members are unable or unwilling to complete their term, after consultation with the California Labor Federation, AFL-CIO, other statewide organized labor organizations, and statewide organizations representing business, as the case may be, the commissioner shall appoint a successor from organized labor or an insured employer to complete the unexpired term.

(c) The public members who serve on the governing committee of a rating organization licensed under this article together may, by

a majority vote, retain experts who shall include a fellow of the Casualty Actuarial Society, to advise them on any matter specified in subdivision (a). The actuary hired may participate in all proceedings of the actuarial committee of the rating organization. The reasonable expense of retaining these experts shall not exceed one hundred thousand dollars ($100,000) per year and shall be paid from the budget of the department. The commissioner shall increase this amount annually to reflect any needed cost-of-living adjustments. The public members may submit information obtained from these experts, as well as any other information they deem appropriate, to the commissioner for his or her consideration in approving a change of any matter specified in subdivision (a).

(d) In addition to the expenses authorized pursuant to subdivision (c), the public members who serve on the governing committee of a rating organization licensed under this article may expend up to an additional one hundred thousand dollars ($100,000) per year, which shall be paid by insurer members of the rating organization. Those funds shall be used to retain staff, who shall be hired by a majority vote of the public members.

SEC. 11. Section 11751.5 of the Insurance Code is amended to read:

11751.5. The commissioner, after notice and hearing, may promulgate reasonable rules and statistical plans, which may be modified from time to time and which shall be used thereafter in the recording and reporting by insurers of their loss and expense experience in order that the experiences of all insurers may be made available in such form and detail as may be necessary to aid the commissioner in administering the provisions of Article 2 (commencing with Section 11730). The commissioner shall designate a rating organization licensed under this article as his or her statistical agent to gather and compile such experience statistics and all licensed rating organizations shall report the experience of their members to such designated rating organization. Subject to reasonable rules approved by the commissioner, such designated rating organization shall make such experience statistics, when compiled, available to all licensed rating organizations and may make a reasonable charge to other rating organizations for the expense incurred by it in combining, tabulating and compiling the experience of all workers' compensation insurers.

SEC. 12. Section 11752.8 of the Insurance Code, as added by Chapter 121 of the Statutes of 1993, is amended to read:

11752.8. (a) For all policies of insurance issued, or renewed for the first time on or after January 1, 1995, the insurer shall provide a notice, approved by the commissioner, to the policyholder, explaining in easily understandable language the workers' compensation rating laws. For policies issued or renewed between January 1, 1994, and January 1, 1995, inclusive, the insurer shall include a notice to the policyholder, in easily understandable language, containing a summary of the changes in the rating laws

enacted during the 1993–94 Regular Session of the Legislature.

(b) The notice required by this section may be combined with the notice required by subdivision (h) of Section 11752.6.

SEC. 13. Section 11752.8 of the Insurance Code, as added by Chapter 228 of the Statutes of 1993, is repealed.

SEC. 14. Section 11759.1 of the Insurance Code, as added by Chapter 121 of the Statutes of 1993, is amended to read:

11759.1. Every rating organization shall, no later than March 1 of each year, notify the Governor and the Legislature that a report containing an analysis of all losses and expenses for the prior year by all insurers who are members of the organization is available on request. The first report shall be due March 1, 1996. The report shall include, but not be limited to, the following:

(a) An analysis of all medical costs identifying separately the amounts paid for medical treatment to hospitals and physicians, and the amounts paid for medical-legal expenses. The amounts paid for medical treatment to physicians shall also identify the amounts paid for each specialty authorized to provide medical services pursuant to Sections 3209.3, 3209.5, and 3209.8 of the Labor Code. The amounts paid for medical-legal evaluations shall also be subcategorized by specialty and shall identify average costs paid per claim.

(b) An analysis of indemnity benefits paid for temporary disability, permanent total disability, permanent partial disability, life pensions, death benefits, and funeral expenses. The permanent partial disability benefits also shall be reported according to the degree of impairment in the following categories: .25 to 24.75 percent, 25 to 69.75 percent, and 70 to 99.75 percent.

(c) An analysis of amounts paid for vocational rehabilitation subcategorized by amounts paid for maintenance allowance, evaluation, education and training, and job placement.

(d) An analysis of expenses of insurers categorized by loss adjustment, acquisition, general expenses, profit, and taxes. Amounts spent for defense attorneys shall be separately identified for both in-house and outside counsel.

(e) An analysis of attorney's fees paid to applicant attorneys.

(f) An analysis of workers' compensation costs by the type of injury or illness generally following the injury classification in the Annual Redesigned Occupational Safety and Health Statistical Program used by the Department of Industrial Relations in its annual report on California work injuries and illnesses.

SEC. 15. Section 62.7 of the Labor Code, as added by Chapter 121 of the Statutes of 1993, is amended to read:

62.7. (a) The Cal-OSHA Targeted Inspection and Consultation Fund is hereby created as a special account in the State Treasury. Proceeds of the fund may be expended by the department, upon appropriation by the Legislature, for the Cal-OSHA targeted inspection program as provided in Section 6314.1, the Cal-OSHA targeted consultation program as provided in subdivision (a) of Section 6354, and certifying loss control consultation services of

workers' compensation insurers pursuant to Section 11745 of the Insurance Code.

(b) The fund shall consist of any money appropriated for these purposes, assessments made pursuant to this section, and fees collected pursuant to Section 11721 of the Insurance Code.

(c) Assessments shall be levied by the director only on all insured employers with a workers' compensation insurance experience rating modification of 1.25 or more and private self-insured employers with an equivalent experience rating of 1.25 or more. The director shall promulgate reasonable rules and regulations governing the manner of collection of the assessment and to determine the equivalent experience rating of 1.25 or more for self-insured employers. The rules shall require the assessment to be paid by employers expressed as a percentage of premium. In no event shall the assessment paid by insured employers be considered a premium for computation of a gross premium tax or agents' commissions. This assessment shall not be continued after the employer's experience modification or equivalent experience modification drops below 1.25.

(d) Amounts assessed pursuant to this section shall not exceed 50 percent of the amounts appropriated from the General Fund for the support of the occupational safety and health program in 1993–94 adjusted for inflation.

SEC. 16. Section 138.6 of the Labor Code, as added by Chapter 121 of the Statutes of 1993, is amended to read:

138.6. The administrative director, in consultation with the Insurance Commissioner and the Workers' Compensation Insurance Rating Bureau, shall develop a workers' compensation information system to do the following:

(a) Assist the department to manage the workers' compensation system in an effective and efficient manner.

(b) Facilitate the evaluation of the efficiency and effectiveness of the benefit delivery system.

(c) Assist in measuring how adequately the system indemnifies injured workers and their dependents.

(d) Provide statistical data for research into specific aspects of the workers' compensation program.

It is the intent of the Legislature that the information system be compatible with the Electronic Data Interchange System of the International Association of Industrial Accident Boards and Commissions. The director shall issue a report on the development of the system, and recommendations for any necessary legislative action, no later than July 1, 1995, and shall, upon request, make the report available to the Governor, the Legislature, and the public.

SEC. 17. Section 139 of the Labor Code, as amended by Chapter 227 of the Statutes of 1993, is amended to read:

139. (a) The Industrial Medical Council shall consist of nine doctors of medicine, at least one of whom shall be a psychiatrist and at least one of whom shall specialize in occupational medicine, two

doctors of osteopathic medicine, two doctors of chiropractic, one physical therapist, and one doctor of psychology, all of whom shall be licensed to practice in this state, and one medical economist. The administrative director shall be an ex officio, nonvoting member of the council, and the medical director appointed pursuant to Section 122, shall serve as executive secretary of the council.

(b) The Governor shall appoint four doctors of medicine, two doctors of osteopathic medicine, one doctor of chiropractic to the council, and one medical economist. The Senate Committee on Rules shall appoint three doctors of medicine, one of whom shall be a psychiatrist, and the doctor of chiropractic. The Speaker of the Assembly shall appoint two doctors of medicine, one of whom shall be an occupational medicine specialist, one physical therapist, and the doctor of psychology.

The term of office of members of the council shall be four years, and a member shall hold office until the appointment of a successor. However, the initial terms of three of the doctors of medicine appointed by the Governor shall expire, respectively, on December 31, 1991, December 31, 1992, and December 31, 1993, and the initial terms of the doctors of medicine appointed by the Speaker of the Assembly shall expire, respectively, on December 31, 1991, December 31, 1992, and December 31, 1993. The initial term of one doctor of osteopathic medicine and the doctor of psychology shall both expire on December 31, 1991. Any vacancy shall be filled by the original appointing authority for the unexpired term.

(c) The nine doctors of medicine and the doctors of osteopathic medicine of the council shall represent medical specialties concerned with the treatment of industrial injury and disease. The doctors of medicine shall be appointed after consultation with the statewide and local associations of the medical profession. The doctors of osteopathic medicine and psychology shall be appointed after consultation with the statewide associations of the osteopathic medical profession and psychologists. The doctors of chiropractic shall be appointed after consultation with statewide and local associations of the chiropractic profession.

(d) Any physician of a type which must be represented pursuant to subdivision (a) may be considered for appointment to the council if the following qualifications are met:

(1) A physician and surgeon shall be board certified in his or her specialty or, if a doctor of chiropractic, shall be certified in a chiropractic specialty recognized and approved by the California Chiropractic Association, the International Chiropractors Association of California, or the American Chiropractic Association, or if a psychologist, shall be board certified in clinical psychology, or hold a doctoral degree in psychology from an accredited university or professional school and have not less than five years' postdoctoral experience in the diagnosis and treatment of emotional and mental disorders.

(2) The physician shall be experienced in treating and evaluating

industrial injuries and shall maintain an active practice, of which at least one-third of the total practice time is devoted to direct patient treatment.

(e) Members of the council shall, within the scope of each member's professional training, do all of the following:

(1) Maintain liaisons with the medical, osteopathic, chiropractic, and psychological professions.

(2) Counsel and assist the administrative director and perform other duties as the administrative director may request.

(3) Assist in recruiting physicians for the medical bureau of the division.

(4) Assist in developing guidelines for the determination of disputed questions of clinical fact, including guidelines for the range of time normally required to perform a comprehensive medical-legal evaluation, as well as the content of those procedures. The guidelines shall include the range of time normally required for direct patient contact between the physician and the patient in each such procedure.

(5) Suggest standards for improving care furnished to injured employees.

(6) Undertake continuing studies of developments in the field of rehabilitation, and continuously inform treating physicians of these developments.

(7) Recommend reasonable levels of fees for physicians performing services under Division 4 (commencing with Section 3200).

(8) In coordination with the administrative director, monitor and measure changes in the cost and frequency of the most common medical services, and adopt guidelines for the treatment of common industrial injuries on or before July 1, 1994. The guidelines shall reflect practices as generally accepted by the health care community, and shall apply the current standards of care, including, but not limited to, appropriate and inappropriate diagnostic techniques, treatment modalities, adjustive modalities, length of treatment, and appropriate specialty referrals. On or before July 1, 1994, the administrative director shall adopt model utilization protocols in order to provide utilization review standards. All insurers shall comply with this protocol by July 1, 1995.

(9) In consultation with the administrative director, promulgate a form which may be used by treating physicians to report on medical issues necessary to determine an employee's compensation.

(f) The council shall appoint an advisory committee on psychiatric injuries with both psychologists and psychiatrists as members and shall consider the advisory committee's recommendations concerning psychiatric injuries. The council may appoint advisory committees for other specialties as may be necessary to the performance of its duties.

(g) No action of the council shall be taken unless concurred in by not less than nine members present and voting at a meeting.

(h) Members of the council shall receive actual, necessary traveling expenses and a per diem allowance of one hundred dollars ($100) for each day spent in meetings of the council.

SEC. 18. Section 139.2 of the Labor Code, as amended by Chapter 121 of the Statutes of 1993, is amended to read:

139.2. (a) The Industrial Medical Council shall appoint qualified medical evaluators in each of the respective specialties as required for the evaluation of medical issues. The appointments shall be for two-year terms.

(b) The council shall appoint as qualified medical evaluators physicians, as defined in Section 3209.3, who are licensed to practice in this state and who demonstrate that they meet each of the following requirements:

(1) Pass an examination written and administered by the Industrial Medical Council for the purpose of demonstrating competence in evaluating medical issues in the workers' compensation system. The council shall administer the first examination on or before July 1, 1994. This requirement shall apply to a physician who was qualified immediately before the time the first examination is administered only after the physician has had an opportunity to take the examination and has failed to do so or has failed the examination.

(2) Devote at least one-third of total practice time to providing direct medical treatment, or has served as an agreed medical evaluator on eight or more occasions in the 12 months prior to applying to be a qualified medical evaluator.

(3) Meet one of the following requirements:

(A) Is board certified, or board eligible, within a time period specified by the council, in his or her specialty by an appropriate board recognized by the council or, if a chiropractor, is certified in California workers' compensation evaluation by an appropriate California professional chiropractic association or accredited California college recognized by the council, or, if a psychologist, meets one of the following requirements:

(i) Is board certified in clinical psychology by a board recognized by the council.

(ii) Holds a doctoral degree in psychology from a university or professional school recognized by the council and has not less than five years' postdoctoral experience in the diagnosis and treatment of emotional and mental disorders.

(iii) Has not less than five years' postdoctoral experience in the diagnosis and treatment of emotional and mental disorders, and has served as an agreed medical evaluator on eight or more occasions prior to January 1, 1990.

(B) Served as an agreed medical evaluator on eight or more occasions prior to January 1, 1970.

(4) Does not have a conflict of interest as determined under the regulations promulgated by the administrative director pursuant to subdivision (o).

(5) Meets any additional medical or professional standards adopted pursuant to paragraph (6) of subdivision (j).

(c) The council shall promulgate standards for appointment of physicians who are retired or who hold teaching positions who are exceptionally well qualified to serve as a qualified medical evaluator even though they do not otherwise qualify under paragraph (1) of subdivision (b). In no event shall a physician whose full-time practice is limited to the forensic evaluation of disability be appointed as a qualified medical evaluator under this subdivision.

(d) The qualified medical evaluator, upon request, shall be reappointed if he or she meets the qualifications for appointment and meets all of the following criteria:

(1) Has completed all medical evaluations within a reasonable time after assignment.

(2) Has not had more than five of his or her evaluations which were considered by a workers' compensation judge at a contested hearing rejected by the judge or the appeals board pursuant to this section during the most recent two-year period during which the physician served as a qualified medical evaluator. If the judge or the appeals board rejects the qualified medical evaluator's report on the basis that it fails to meet the minimum standards for those reports established by the Industrial Medical Council or the appeals board, the judge or the appeals board, as the case may be, shall make a specific finding to that effect, and shall give notice to the medical evaluator and to the Industrial Medical Council. Any rejection shall not be counted as one of the five qualifying rejections until the specific finding has become final and time for appeal has expired.

(3) Has completed within the previous 48 months at least 24 hours of continuing education in impairment evaluation or workers' compensation-related medical dispute evaluation approved by the Industrial Medical Council.

(4) Has not been terminated, suspended, placed on probation, or otherwise disciplined by the council during his or her most recent term as a qualified medical evaluator.

If the evaluator does not meet any one of these criteria, the Industrial Medical Council may in its discretion reappoint or deny reappointment according to regulations promulgated by the council. In no event may a physician who does not currently meet the requirements for initial appointment or who has been terminated under subdivision (e) be reappointed.

(e) Except as provided in subdivision (k), the evaluator shall not be terminated during his or her term of office unless his or her licensing authority has suspended, revoked, or terminated his or her license to practice in California.

(f) The Industrial Medical Council shall furnish a physician, upon request, a written statement of its reasons for termination of or for denying appointment or reappointment as a qualified medical evaluator. Upon receipt of a specific response to the statement of reasons, the Industrial Medical Council shall review its decision not

to appoint or reappoint the physician or to terminate the physician and shall notify the physician of its final decision within 60 days after receipt of the physician's response.

(g) The council shall establish agreements with qualified medical evaluators to assure the expeditious evaluation of cases assigned to them for comprehensive medical evaluations.

(h) When the injured worker is not represented by an attorney, the medical director appointed pursuant to Section 122, shall assign three-member panels of qualified medical evaluators within five working days after receiving a request for a panel. If a panel is not assigned within 15 working days, the employee shall have the right to obtain a medical evaluation from any qualified medical evaluator of his or her choice. The medical director shall use a random selection method for assigning panels of qualified medical evaluators. The medical director shall select evaluators who are specialists of the type selected by the employee. The medical director shall advise the employee that he or she should consult with his or her treating physician prior to deciding which type of specialist to request. The Industrial Medical Council shall promulgate a form which shall notify the employee of the physicians selected for his or her panel. The form shall include, for each physician on the panel, the physician's name, address, telephone number, specialty, number of years in practice, and a brief description of his or her education and training, and shall advise the employee that he or she is entitled to receive transportation expenses and temporary disability for each day necessary for the examination. The form shall also state in a clear and conspicuous location and type: "You have the right to consult with an information and assistance officer at no cost to you prior to selecting the doctor to prepare your evaluation, or you may consult with an attorney. If your claim eventually goes to court, the judge will consider the evaluation prepared by the doctor you select to decide your claim." When compiling the list of evaluators from which to select randomly, the medical director shall include all qualified medical evaluators who do not have a conflict of interest in the case, as defined by regulations adopted pursuant to subdivision (o) of the appropriate specialty type as recognized by an appropriate, recognized board within the general geographic area of the employee's residence, and shall have no authority to exclude qualified medical evaluators based on any other criteria. When the medical director determines that an employee has requested an evaluation by a type of specialist which is appropriate for the employee's injury, but there are not enough qualified medical evaluators of that type within the general geographic area of the employee's residence to establish a three-member panel, the medical director shall include sufficient qualified medical evaluators from other geographic areas and the employer shall pay all necessary travel costs incurred in the event the employee selects an evaluator from another geographic area.

(i) The medical director appointed pursuant to Section 122, shall

continuously review the quality of comprehensive medical evaluations and reports prepared by agreed and qualified medical evaluators and the timeliness with which evaluation reports are prepared and submitted. The review shall include, but not be limited to, a review of a random sample of reports submitted to the division, and a review of all reports alleged to be inaccurate or incomplete by a party to a case for which the evaluation was prepared. The medical director shall submit to the administrative director an annual report summarizing the results of the continuous review of medical evaluations and reports prepared by agreed and qualified medical evaluators and make recommendations for the improvement of the system of medical evaluations and determinations.

(j) After public hearing pursuant to Section 5307.4, the council shall promulgate rules and regulations concerning the following medical issues:

(1) Standards governing the timeframes within which medical evaluations shall be prepared and submitted by agreed and qualified medical evaluators. The timeframe for initial medical evaluations to be prepared and submitted shall be no more than 30 days after the evaluator has seen the employee or otherwise commenced the medical evaluation procedure. The council shall develop a written policy governing the provision of extensions of the 30-day period in cases where the evaluator has not received test results or consulting physician's evaluations in time to meet the 30-day deadline. The council shall develop timeframes governing availability of qualified medical evaluators for unrepresented employees under Section 4061. These timeframes shall give the employee the right to the addition of a new evaluator to his or her panel, selected at random, for each evaluator not available to see the employee within a specified period of time, but shall also permit the employee to waive this right for a specified period of time thereafter.

(2) Procedures to be followed by all physicians in evaluating the existence and extent of permanent impairment and limitations resulting from an injury. In order to produce complete, accurate, uniform, and replicable evaluations, the procedures shall require that an evaluation of anatomical loss, functional loss, and the presence of physical complaints be supported, to the extent feasible, by medical findings based on standardized examinations and testing techniques generally accepted by the medical community.

(3) Procedures governing the determination of any disputed medical issues.

(4) Procedures to be used in determining the compensability of psychiatric injury. The procedures shall be in accordance with Section 3208.3 and shall require that the diagnosis of a mental disorder be expressed using the terminology and criteria of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Third Edition-Revised, or the terminology and diagnostic criteria of other psychiatric diagnostic manuals generally approved and accepted nationally by practitioners in the field of

psychiatric medicine.

(5) Guidelines for the range of time normally required to perform the following:

(A) A medical-legal evaluation that has not been defined and valued pursuant to Section 5307.6. However, the council may recommend guidelines for evaluations that have been defined and valued pursuant to Section 5307.6 for the purpose of governing the appointment, reappointment, and discipline of qualified medical evaluators. The guidelines shall establish minimum times for patient contact in the conduct of the evaluations, and shall be consistent with regulations adopted pursuant to Section 5307.6.

(B) Any treatment procedures that have not been defined and valued pursuant to Section 5307.1.

(C) Any other evaluation procedure requested by the administrative director, the Insurance Commissioner, or the council itself.

If, without good cause, the council fails to adopt the guidelines required by subparagraph (A) or (B) by March 31, 1994, or fails, without good cause, to adopt a guideline pursuant to subparagraph (C) within six months after a request by the administrative director or the Insurance Commissioner, then the administrative director shall have the authority to adopt the guideline.

(6) Any additional medical or professional standards which a medical evaluator shall meet as a condition of appointment, reappointment, or maintenance in the status of a medical evaluator.

(k) The Industrial Medical Council may, in its discretion, suspend or terminate the privilege of a physician to serve as a qualified medical evaluator if the council, after hearing pursuant to subdivision (*l*), determines, based on substantial evidence, that a qualified medical evaluator:

(1) Has violated any material statutory or administrative duty.

(2) Has failed to follow the medical procedures or qualifications established by the council pursuant to paragraph (2), (3), (4), or (5) of subdivision (j).

(3) Has failed to comply with the timeframe standards established by the council pursuant to subdivision (j).

(4) Has failed to meet the requirements of subdivision (b) or (c).

(5) Has prepared medical-legal evaluations that fail to meet the minimum standards for those reports established by the Industrial Medical Council or the appeals board.

(*l*) The council shall cite the qualified medical evaluator for a violation listed in subdivision (k) and shall set a hearing on the alleged violation within 30 days of service of the citation on the qualified medical evaluator. In addition to the authority to terminate or suspend the qualified medical evaluator upon finding a violation listed in subdivision (k), the council may, in its discretion, place a qualified medical evaluator on probation subject to appropriate conditions, including ordering continuing education or training. The council shall report to the appropriate licensing board the name of

any qualified medical evaluator who is disciplined pursuant to this subdivision.

(m) The council shall terminate from the list of medical evaluators any physician where licensure has been terminated by the relevant licensing board, or who has been convicted of a misdemeanor or felony related to the conduct of his or her medical practice, or of a crime of moral turpitude. The council shall suspend or terminate as a medical evaluator any physician who has been suspended or placed on probation by the relevant licensing board.

(n) Each qualified medical evaluator shall pay a fee, as determined by the Industrial Medical Council, for appointment or reappointment. Any qualified medical evaluator appointed prior to January 1, 1993, shall also pay the same fee as specified herein. These fees shall be based on a sliding scale as established by the council. All revenues from fees paid under this subdivision shall be deposited into the Industrial Medicine Fund, which is hereby created for the administration of the Industrial Medical Council. Moneys paid into the Industrial Medicine Fund for the activities of the Industrial Medical Council shall not be used by any other department or agency or for any purpose other than administration of the council. The funds provided to the council from the Industrial Medicine Fund shall not supplant any funds appropriated to the council from the Workers' Compensation Administration Revolving Fund, the General Fund, or any other governmental source. Any future annual appropriation to the council from the Workers' Compensation Administration Revolving Fund, the General Fund, or any other governmental source shall not be less than the amount appropriated or provided during the 1991–92 fiscal year.

(o) An evaluator may not request or accept any compensation or other thing of value from any source that does or could create a conflict with his or her duties as an evaluator under this code. The administrative director, after consultation with the council and the Commission on Health and Safety and Workers' Compensation, shall adopt regulations to implement this subdivision on or before July 1, 1994.

SEC. 19. Section 139.3 of the Labor Code, as added by Chapter 121 of the Statutes of 1993, is amended to read:

139.3. (a) Notwithstanding any other provision of law, to the extent those services are paid pursuant to Division 4 (commencing with Section 3200), it is unlawful for a physician to refer a person for clinical laboratory, diagnostic nuclear medicine, radiation oncology, physical therapy, physical rehabilitation, psychometric testing, home infusion therapy, or diagnostic imaging goods or services whether for treatment or medical-legal purposes if the physician or his or her immediate family has a financial interest with the person or in the entity that receives the referral.

(b) For purposes of this section and Section 139.31, the following shall apply:

(1) "Diagnostic imaging" includes, but is not limited to, all X-ray,

computed axial tomography magnetic resonance imaging, nuclear medicine, positron emission tomography, mammography, and ultrasound goods and services.

(2) "Immediate family" includes the spouse and children of the physician, the parents of the physician, and the spouses of the children of the physician.

(3) "Physician" means a physician as defined in Section 3209.3.

(4) A "financial interest" includes, but is not limited to, any type of ownership, interest, debt, loan, lease, compensation, remuneration, discount, rebate, refund, dividend, distribution, subsidy, or other form of direct or indirect payment, whether in money or otherwise, between a licensee and a person or entity to whom the physician refers a person for a good or service specified in subdivision (a). A financial interest also exists if there is an indirect relationship between a physician and the referral recipient, including, but not limited to, an arrangement whereby a physician has an ownership interest in any entity that leases property to the referral recipient. Any financial interest transferred by a physician to, or otherwise established in, any person or entity for the purpose of avoiding the prohibition of this section shall be deemed a financial interest of the physician.

(5) A "physician's office" is either of the following:

(A) An office of a physician in solo practice.

(B) An office in which the services or goods are personally provided by the physician or by employees in that office, or personally by independent contractors in that office, in accordance with other provisions of law. Employees and independent contractors shall be licensed or certified when that licensure or certification is required by law.

(6) The "office of a group practice" is an office or offices in which two or more physicians are legally organized as a partnership, professional corporation, or not-for-profit corporation licensed according to subdivision (a) of Section 1204 of the Health and Safety Code for which all of the following are applicable:

(A) Each physician who is a member of the group provides substantially the full range of services that the physician routinely provides, including medical care, consultation, diagnosis, or treatment, through the joint use of shared office space, facilities, equipment, and personnel.

(B) Substantially all of the services of the physicians who are members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group, and except that in the case of multispecialty clinics, as defined in subdivision (*l*) of Section 1206 of the Health and Safety Code, physician services are billed in the name of the multispecialty clinic and amounts so received are treated as receipts of the multispecialty clinic.

(C) The overhead expenses of, and the income from, the practice are distributed in accordance with methods previously determined

by members of the group.

(c) (1) It is unlawful for a licensee to enter into an arrangement or scheme, such as a cross-referral arrangement, that the licensee knows, or should know, has a principal purpose of ensuring referrals by the licensee to a particular entity that, if the licensee directly made referrals to that entity, would be in violation of this section.

(2) It shall be unlawful for a physician to offer, deliver, receive, or accept any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for a referred evaluation or consultation.

(d) No claim for payment shall be presented by an entity to any individual, third-party payor, or other entity for a good or service furnished pursuant to a referral prohibited under this section.

(e) A physician who refers to or seeks consultation from an organization in which the physician has a financial interest shall disclose this interest to the patient or if the patient is a minor, to the patient's parents or legal guardian in writing at the time of the referral.

(f) No insurer, self-insurer, or other payor shall pay a charge or lien for any good or service resulting from a referral in violation of this section.

(g) A violation of subdivision (a) shall be a misdemeanor. The appropriate licensing board shall review the facts and circumstances of any conviction pursuant to subdivision (a) and take appropriate disciplinary action if the licensee has committed unprofessional conduct. Violations of this section may also be subject to civil penalties of up to five thousand dollars ($5,000) for each offense, which may be enforced by the Insurance Commissioner, Attorney General, or a district attorney. A violation of subdivision (c), (d), (e), or (f) is a public offense and is punishable upon conviction by a fine not exceeding fifteen thousand dollars ($15,000) for each violation and appropriate disciplinary action, including revocation of professional licensure, by the Medical Board of California or other appropriate governmental agency.

SEC. 20. Section 139.31 of the Labor Code, as added by Chapter 121 of the Statutes of 1993, is amended to read:

139.31. The prohibition of Section 139.3 shall not apply to or restrict any of the following:

(a) A physician may refer a patient for a good or service otherwise prohibited by subdivision (a) of Section 139.3 if the physician's regular practice is where there is no alternative provider of the service within either 25 miles or 40 minutes traveling time, via the shortest route on a paved road. A physician who refers to, or seeks consultation from, an organization in which the physician has a financial interest under this subdivision shall disclose this interest to the patient or the patient's parents or legal guardian in writing at the time of referral.

(b) A physician who has one or more of the following

arrangements with another physician, a person, or an entity, is not prohibited from referring a patient to the physician, person, or entity because of the arrangement:

(1) A loan between a physician and the recipient of the referral, if the loan has commercially reasonable terms, bears interest at the prime rate or a higher rate that does not constitute usury, is adequately secured, and the loan terms are not affected by either party's referral of any person or the volume of services provided by either party.

(2) A lease of space or equipment between a physician and the recipient of the referral, if the lease is written, has commercially reasonable terms, has a fixed periodic rent payment, has a term of one year or more, and the lease payments are not affected by either party's referral of any person or the volume of services provided by either party.

(3) A physician's ownership of corporate investment securities, including shares, bonds, or other debt instruments that were purchased on terms that are available to the general public through a licensed securities exchange or NASDAQ, do not base profit distributions or other transfers of value on the physician's referral of persons to the corporation, do not have a separate class or accounting for any persons or for any physicians who may refer persons to the corporation, and are in a corporation that had, at the end of the corporation's most recent fiscal year, total gross assets exceeding one hundred million dollars ($100,000,000).

(c) (1) A physician may refer a person to a health facility as defined in Section 1250 of the Health and Safety Code, or to any facility owned or leased by a health facility, if the recipient of the referral does not compensate the physician for the patient referral, and any equipment lease arrangement between the physician and the referral recipient complies with the requirements of paragraph (2) of subdivision (b).

(2) Nothing shall preclude this subdivision from applying to a physician solely because the physician has an ownership or leasehold interest in an entire health facility or an entity that owns or leases an entire health facility.

(3) A physician may refer a person to a health facility for any service classified as an emergency under subdivision (a) or (b) of Section 1317.1 of the Health and Safety Code. For nonemergency outpatient diagnostic imaging services performed with equipment for which, when new, has a commercial retail price of four hundred thousand dollars ($400,000) or more, the referring physician shall obtain a service preauthorization from the insurer, or self-insured employer. Any oral authorization shall be memorialized in writing within five business days.

(d) A physician compensated or employed by a university may refer a person to any facility owned or operated by the university, or for a physician service, to another physician employed by the university, provided that the facility or university does not

compensate the referring physician for the patient referral. For nonemergency diagnostic imaging services performed with equipment that, when new, has a commercial retail price of four hundred thousand dollars ($400,000) or more, the referring physician shall obtain a service preauthorization from the insurer or self-insured employer. An oral authorization shall be memorialized in writing within five business days. In the case of a facility which is totally or partially owned by an entity other than the university, but which is staffed by university physicians, such physicians may not refer patients to the facility if the facility compensates the referring physician for such referrals.

(e) The prohibition of Section 139.3 shall not apply to any service for a specific patient that is performed within, or goods that are supplied by, a physician's office, or the office of a group practice. Further, the provisions of Section 139.3 shall not alter, limit, or expand a physician's ability to deliver, or to direct or supervise the delivery of, in-office goods or services according to the laws, rules, and regulations governing his or her scope of practice. With respect to diagnostic imaging services performed with equipment that, when new, had a commercial retail price of four hundred thousand dollars ($400,000) or more, or for physical therapy services, or for psychometric testing which exceeds the routine screening battery protocols, with a time limit of two to five hours, established by the Industrial Medical Council, the referring physician obtains a service preauthorization from the insurer or self-insured employer. Any oral authorization shall be memorialized in writing within five business days.

(f) The prohibition of Section 139.3 shall not apply where the physician is in a group practice as defined in Section 139.3 and refers a person for services specified in Section 139.3 to a multispecialty clinic, as defined in subdivision (*l*) of Section 1206 of the Health and Safety Code. For diagnostic imaging services performed with equipment that, when new, had a commercial retail price of four hundred thousand dollars ($400,000) or more, or physical therapy services, or psychometric testing which exceeds the routine screening battery protocols, with a time limit of two to five hours, established by the Industrial Medical Council, performed at the multispecialty facility, the referring physician shall obtain a service preauthorization from the insurer or self-insured employer. Any oral authorization shall be memorialized in writing within five business days.

(g) The requirement for preauthorization in sections (c), (e), and (f) shall not apply to a patient for which the physician or group accepts payment on a capitated risk basis.

(h) The prohibition of Section 139.3 shall not apply to any facility when used to provide health care services to an enrollee of a health care service plan licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

SEC. 21. Section 139.5 of the Labor Code, as amended by Chapter 121 of the Statutes of 1993, is amended to read:

139.5. (a) The administrative director shall establish a vocational rehabilitation unit, which shall include appropriate professional staff, and which shall have the following duties:

(1) To foster, review, and approve vocational rehabilitation plans developed by a qualified rehabilitation representative of the employer, insurer, state agency, or employee. Plans agreed to by the employer and employee do not require approval by the vocational rehabilitation unit unless the employee is unrepresented.

(2) To develop rules and regulations, to be promulgated by the administrative director, providing for a procedure in which an employee may waive the services of a qualified rehabilitation representative where the employee has been enrolled and made substantial progress toward completion of a degree or certificate from a community college, California State University, or the University of California and desires a plan to complete the degree or certificate. These rules and regulations shall provide that any such waiver as well as any plan developed without the assistance of a qualified rehabilitation representative must be approved by the rehabilitation unit.

(3) To develop rules and regulations, to be promulgated by the administrative director, which would expedite and facilitate the identification, notification and referral of industrially injured employees to vocational rehabilitation services.

(4) To coordinate and enforce the implementation of vocational rehabilitation plans.

(5) To develop a fee schedule, to be promulgated by the administrative director, governing reasonable fees for vocational rehabilitation services provided on and after January 1, 1991. The initial fee schedule promulgated under this paragraph shall be designed to reduce the cost of vocational rehabilitation services by 10 percent from the level of fees paid during 1989. On or before July 1, 1994, the administrative director shall establish the maximum aggregate permissible fees that may be charged for counseling. Those fees shall not exceed four thousand five hundred dollars ($4,500) and shall be included within the sixteen thousand dollar ($16,000) cap. The fee schedule shall establish maximum aggregate permissible fees for evaluation, plan development, and job placement services.

(6) To develop standards, to be promulgated by the administrative director, for governing the timeliness and the quality of vocational rehabilitation services.

(b) The salaries of the personnel of the vocational rehabilitation unit shall be fixed by the Department of Personnel Administration.

(c) When an employee is determined to be medically eligible and chooses to participate in a vocational rehabilitation program, he or she shall continue to receive temporary disability indemnity payments only until his or her medical condition becomes

permanent and stationary and, thereafter, may receive a maintenance allowance. Rehabilitation maintenance allowance payments shall begin after the employee's medical condition becomes permanent and stationary, upon a request for vocational rehabilitation services. Thereafter, the maintenance allowance shall be paid for a period not to exceed 52 weeks in the aggregate, except where the overall cap on vocational rehabilitation services can be exceeded under this section or Section 4642 or subdivision (d) or (e) of Section 4644.

The employee also shall receive additional living expenses necessitated by the vocational rehabilitation services, together with all reasonable and necessary vocational training, at the expense of the employer, but in no event shall the expenses, counseling fees, training, maintenance allowance, and costs associated with, or arising out of, vocational rehabilitation services incurred after the employee's request for vocational rehabilitation services, except temporary disability payments, exceed sixteen thousand dollars ($16,000). The administrative director shall adopt regulations to ensure that the continued receipt of vocational rehabilitation maintenance allowance benefits is dependent upon the injured worker's regular and consistent attendance at, and participation in, his or her vocational rehabilitation program.

(d) The amount of the maintenance allowance due under subdivision (c) shall be two-thirds of the employee's average weekly earnings at the date of injury payable as follows:

(1) The amount the employee would have received as continuing temporary disability indemnity, but not more than two hundred forty-six dollars ($246) a week for injuries occurring on or after January 1, 1990.

(2) At the employee's option, an additional amount from permanent disability indemnity due or payable, sufficient to provide the employee with a maintenance allowance equal to two-thirds of the employee's average weekly earnings at the date of injury subject to the limits specified in subdivision (a) of Section 4453 and the requirements of Section 4661.5. In no event shall temporary disability indemnity and maintenance allowance be payable concurrently.

If the employer disputes the treating physician's determination of medical eligibility, the employee shall continue to receive that portion of the maintenance allowance payable under paragraph (1) pending final determination of the dispute. If the employee disputes the treating physician's determination of medical eligibility and prevails, the employee shall be entitled to that portion of the maintenance allowance payable under paragraph (1) retroactive to the date of the employee's request for vocational rehabilitation services. These payments shall not be counted against the maximum expenditures for vocational rehabilitation services provided by this section.

(e) No provision of this section nor of any rule, regulation, or vocational rehabilitation plan developed or promulgated under this

section nor any benefit provided pursuant to this section shall apply to an injured employee whose injury occurred prior to January 1, 1975. Nothing in this section shall affect any plan, benefit, or program authorized by this section as added by Chapter 1513 of the Statutes of 1965 or as amended by Chapter 83 of the Statutes of 1972.

(f) The time within which an employee may request vocational rehabilitation services is set forth in Sections 5405.5, 5410, and 5803.

(g) An offer of a job within state service to a state employee in State bargaining unit 1, 4, 15, 18, or 20 at the same or similar salary and the same or similar geographic location is a prima facie offer of vocational rehabilitation under this statute.

(h) It shall be unlawful for a qualified rehabilitation representative or rehabilitation counselor to refer any employee to any work evaluation facility or to any education or training program if the qualified rehabilitation representative or rehabilitation counselor, or a spouse, employer, coemployee, or any party with whom he or she has entered into contract, express or implied, has any proprietary interest in or contractual relationship with the work evaluation facility or education or training program. It shall also be unlawful for any insurer to refer any injured worker to any rehabilitation provider or facility if the insurer has a proprietary interest in the rehabilitation provider or facility or for any insurer to charge against any claim for the expenses of employees of the insurer to provide vocational rehabilitation services unless those expenses are disclosed to the insured and agreed to in advance.

(i) Any charges by an insurer for the activities of an employee who supervises outside vocational rehabilitation services shall not exceed the vocational rehabilitation fee schedule, and shall not be counted against the overall cap for vocational rehabilitation or the limit on counselor's fees provided for in this section. These charges shall be attributed as expenses by the insurer and not losses for purposes of insurance rating pursuant to Article 2 (commencing with Section 11730) of Chapter 3 of Division 2 of the Insurance Code.

(j) Any costs of an employer of supervising vocational rehabilitation services shall not be counted against the overall cap for vocational rehabilitation or the limit on counselor's fees provided for in this section.

SEC. 22. Section 3208.3 of the Labor Code, as amended by Chapter 118 of the Statutes of 1993, is amended to read:

3208.3. (a) A psychiatric injury shall be compensable if it is a mental disorder which causes disability or need for medical treatment, and it is diagnosed pursuant to procedures promulgated under paragraph (4) of subdivision (j) of Section 139.2 or, until these procedures are promulgated, it is diagnosed using the terminology and criteria of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Third Edition-Revised, or the terminology and diagnostic criteria of other psychiatric diagnostic manuals generally approved and accepted nationally by practitioners in the field of psychiatric medicine.

(b) (1) In order to establish that a psychiatric injury is compensable, an employee shall demonstrate by a preponderance of the evidence that actual events of employment were predominant as to all causes combined of the psychiatric injury.

(2) Notwithstanding paragraph (1), in the case of employees whose injuries resulted from being a victim of a violent act or from direct exposure to a significant violent act, the employee shall be required to demonstrate by a preponderance of the evidence that actual events of employment were a substantial cause of the injury.

(3) For the purposes of this section, "substantial cause" means at least 35 to 40 percent of the causation from all sources combined.

(c) It is the intent of the Legislature in enacting this section to establish a new and higher threshold of compensability for psychiatric injury under this division.

(d) Notwithstanding any other provision of this division, no compensation shall be paid pursuant to this division for a psychiatric injury related to a claim against an employer unless the employee has been employed by that employer for at least six months. The six months of employment need not be continuous. This subdivision shall not apply if the psychiatric injury is caused by a sudden and extraordinary employment condition. Nothing in this subdivision shall be construed to authorize an employee, or his or her dependents, to bring an action at law or equity for damages against the employer for a psychiatric injury, where those rights would not exist pursuant to the exclusive remedy doctrine set forth in Section 3602 in the absence of the amendment of this section by the act adding this subdivision.

(e) Where the claim for compensation is filed after notice of termination of employment or layoff, including voluntary layoff, and the claim is for an injury occurring prior to the time of notice of termination or layoff, no compensation shall be paid unless the employee demonstrates by a preponderance of the evidence that actual events of employment were predominant as to all causes combined of the psychiatric injury and one or more of the following conditions exist:

(1) Sudden and extraordinary events of employment were the cause of the injury.

(2) The employer has notice of the psychiatric injury under Chapter 2 (commencing with Section 5400) prior to the notice of termination or layoff.

(3) The employee's medical records existing prior to notice of termination or layoff contain evidence of treatment of the psychiatric injury.

(4) Upon a finding of sexual or racial harassment by any trier of fact, whether contractual, administrative, regulatory, or judicial.

(5) Evidence that the date of injury, as specified in Section 5411 or 5412, is subsequent to the date of the notice of termination or layoff, but prior to the effective date of the termination or layoff.

(f) For purposes of this section, an employee provided notice

pursuant to Sections 44948.5, 44949, 44951, 44955, 44955.6, 72411, 87740, and 87743 of the Education Code shall be considered to have been provided a notice of termination or layoff only upon a district's final decision not to reemploy that person.

(g) A notice of termination or layoff that is not followed within 60 days by that termination or layoff shall not be subject to the provisions of this subdivision, and this subdivision shall not apply until receipt of a later notice of termination or layoff. The issuance of frequent notices of termination or layoff to an employee shall be considered a bad faith personnel action and shall make this subdivision inapplicable to the employee.

(h) No compensation under this division shall be paid by an employer for a psychiatric injury if the injury was substantially caused by a lawful, nondiscriminatory, good faith personnel action. The burden of proof shall rest with the party asserting the issue.

(i) When a psychiatric injury claim is filed against an employer, and an application for adjudication of claim is filed by an employer or employee, the division shall provide the employer with information concerning psychiatric injury prevention programs.

SEC. 23. Section 3217 of the Labor Code, as amended by Chapter 120 of the Statutes of 1993, is amended to read:

3217. (a) Section 3215 shall not be construed to prevent the recommendation of professional employment where that recommendation is not prohibited by the Rules of Professional Conduct of the State Bar.

(b) Section 3215 shall not be construed to prohibit a public defender or assigned counsel from making known his or her availability as a criminal defense attorney to persons unable to afford legal counsel, whether or not those persons are in custody.

(c) Any person who commits an act that violates both Section 3215 and either Section 650 of the Business and Professions Code or Section 750 of the Insurance Code shall, upon conviction, have judgment and sentence imposed for only one violation for any act.

(d) Section 3215 shall not be construed to prohibit the payment or receipt of consideration or services that is lawful pursuant to Section 650 of the Business and Professions Code.

(e) Notwithstanding Sections 3215 and 3219, and Section 750 of the Insurance Code, nothing shall prevent an attorney at law or a law firm from providing any person or entity with legal advice, information, or legal services, including the providing of printed, copied, or written documents, either without charge or for an otherwise lawfully agreed upon attorney fee.

SEC. 24. Section 3600 of the Labor Code, as amended by Chapter 118 of the Statutes of 1993, is amended to read:

3600. (a) Liability for the compensation provided by this division, in lieu of any other liability whatsoever to any person except as otherwise specifically provided in Sections 3602, 3706, and 4558, shall, without regard to negligence, exist against an employer for any injury sustained by his or her employees arising out of and in the

course of the employment and for the death of any employee if the injury proximately causes death, in those cases where the following conditions of compensation concur:

(1) Where, at the time of the injury, both the employer and the employee are subject to the compensation provisions of this division.

(2) Where, at the time of the injury, the employee is performing service growing out of and incidental to his or her employment and is acting within the course of his or her employment.

(3) Where the injury is proximately caused by the employment, either with or without negligence.

(4) Where the injury is not caused by the intoxication, by alcohol or the unlawful use of a controlled substance, of the injured employee. As used in this paragraph, "controlled substance" shall have the same meaning as prescribed in Section 11007 of the Health and Safety Code.

(5) Where the injury is not intentionally self-inflicted.

(6) Where the employee has not willfully and deliberately caused his or her own death.

(7) Where the injury does not arise out of an altercation in which the injured employee is the initial physical aggressor.

(8) Where the injury is not caused by the commission of a felony, or a crime which is punishable as specified in subdivision (b) of Section 17 of the Penal Code, by the injured employee, for which he or she has been convicted.

(9) Where the injury does not arise out of voluntary participation in any off-duty recreational, social, or athletic activity not constituting part of the employee's work-related duties, except where these activities are a reasonable expectancy of, or are expressly or impliedly required by, the employment. The administrative director shall promulgate reasonable rules and regulations requiring employers to post and keep posted in a conspicuous place or places a notice advising employees of the provisions of this subdivision. Failure of the employer to post the notice shall not constitute an expression of intent to waive the provisions of this subdivision.

(10) Except for psychiatric injuries governed by subdivision (e) of Section 3208.3, where the claim for compensation is filed after notice of termination or layoff, including voluntary layoff, and the claim is for an injury occurring prior to the time of notice of termination or layoff, no compensation shall be paid unless the employee demonstrates by a preponderance of the evidence that one or more of the following conditions apply:

(A) The employer has notice of the injury, as provided under Chapter 2 (commencing with Section 5400), prior to the notice of termination or layoff.

(B) The employee's medical records, existing prior to the notice of termination or layoff, contain evidence of the injury.

(C) The date of injury, as specified in Section 5411, is subsequent to the date of the notice of termination or layoff, but prior to the

effective date of the termination or layoff.

(D) The date of injury, as specified in Section 5412, is subsequent to the date of the notice of termination or layoff.

For purposes of this paragraph, an employee provided notice pursuant to Sections 44948.5, 44949, 44951, 44955, 44955.6, 72411, 87740, and 87743 of the Education Code shall be considered to have been provided a notice of termination or layoff only upon a district's final decision not to reemploy that person.

A notice of termination or layoff that is not followed within 60 days by that termination or layoff shall not be subject to the provisions of this paragraph, and this paragraph shall not apply until receipt of a later notice of termination or layoff. The issuance of frequent notices of termination or layoff to an employee shall be considered a bad faith personnel action and shall make this paragraph inapplicable to the employee.

(b) Where an employee, or his or her dependents, receives the compensation provided by this division and secures a judgment for, or settlement of, civil damages pursuant to those specific exemptions to the employee's exclusive remedy set forth in subdivision (b) of Section 3602 and Section 4558, the compensation paid under this division shall be credited against the judgment or settlement, and the employer shall be relieved from the obligation to pay further compensation to, or on behalf of, the employee or his or her dependents up to the net amount of the judgment or settlement received by the employee or his or her heirs, or that portion of the judgment as has been satisfied.

SEC. 24.5. Section 3701 of the Labor Code, as amended by Assembly Bill 424 of the 1993 portion of the 1993–94 Regular Session, is amended to read:

3701. (a) Each year every private self-insuring employer shall secure incurred liabilities for the payment of compensation and the performance of the obligations of employers imposed under this chapter by renewing the prior year's security deposit or by making a new deposit of security. If a new deposit is made, it shall be posted within 60 days of the filing of the self-insured employer's annual report with the director, but in no event later than May 1.

(b) The minimum deposit shall be 125 percent of the private self-insurer's estimated future liability for compensation to secure payment of compensation plus 10 percent of the private self-insurer's estimated future liability for compensation to secure payment of all administrative and legal costs relating to or arising from the employer's self-insuring. In no event shall the security deposit for the incurred liabilities for compensation be less than two hundred twenty thousand dollars ($220,000).

(c) In determining the amount of the deposit required to secure incurred liabilities for the payment of compensation and the performance of obligations of a self-insured employer imposed under this chapter, the director shall offset estimated future liabilities for the same claims covered by a self-insured plan under the Longshore

and Harbor Workers' Compensation Act (33 U.S.C. Sec. 901 et seq.), but in no event shall the offset exceed the estimated future liabilities for the claims under this chapter.

(d) The director may only accept as security, and the employer shall deposit as security, cash, securities, surety bonds, or irrevocable letters of credit in any combination the director, in his or her discretion, deems adequate security. The current deposit shall include within its coverage all amounts covered by terminated surety bonds or excess insurance policies.

(e) Surety bonds, irrevocable letters of credit, and documents showing issuance of any irrevocable letter of credit shall be deposited with, and be in a form approved by, the director, shall be exonerated only according to its terms and, in no event, by the posting of additional security.

(f) The director may accept as security a joint security deposit that secures an employer's obligation under this chapter and that also secures that employer's obligations under the federal Longshore and Harbor Workers' Compensation Act.

(g) The liability of the Self-Insurers' Security Fund, with respect to any claims brought under both this chapter and under the federal Longshore and Harbor Workers' Compensation Act, to pay for shortfalls in a security deposit shall be limited to the amount of claim liability owing the employee under this chapter offset by the amount of any claim liability owing under the Longshore and Harbor Workers' Compensation Act, but in no event shall the liability of the fund exceed the claim liability under this chapter. The employee shall be entitled to pursue recovery under either or both the state and federal programs.

(h) Securities shall be deposited on behalf of the director by the self-insured employer with the Treasurer. Securities shall be accepted by the Treasurer for deposit and shall be withdrawn only upon written order of the director.

(i) Cash shall be deposited in a financial institution approved by the director, and in the account assigned to the director. Cash shall be withdrawn only upon written order of the director.

(j) Upon the sending by the director of a request to renew, request to post, or request to increase or decrease a security deposit, a perfected security interest is created in the private self-insured's assets in favor of the director to the extent of any then unsecured portion of the self-insured's incurred liabilities. That perfected security interest is transferred to any cash or securities thereafter posted by the private self-insured with the director and is released only upon either of the following:

(1) The acceptance by the director of a surety bond or irrevocable letter of credit for the full amount of the incurred liabilities for the payment of compensation.

(2) The return of cash or securities by the director.

The private self-insured employer loses all right, title, and interest in, and any right to control, all assets or obligations posted or left on

deposit as security. The director may liquidate the deposit as provided in Section 3701.5 and apply it to the self-insured employer's incurred liabilities either directly or through the Self-Insurers' Security Fund.

SEC. 25. Section 3762 of the Labor Code, as added by Chapter 121 of the Statutes of 1993, is amended to read:

3762. The insurer shall discuss all elements of the claim file that affect the employer's premium with the employer, and shall supply copies of the documents that affect the premium at the employer's expense during reasonable business hours. The right provided by this section shall not extend to any document that the insurer is prohibited from disclosing to the employer under the attorney-client privilege, any other applicable privilege, or statutory prohibition upon disclosure, or under Section 1877.4 of the Insurance Code.

SEC. 26. Section 3820 of the Labor Code, as added by Chapter 120 of the Statutes of 1993, is amended to read:

3820. (a) In enacting this section, the Legislature declares that there exists a compelling interest in eliminating fraud in the workers' compensation system. The Legislature recognizes that the conduct prohibited by this section is, for the most part, already subject to criminal penalties pursuant to other provisions of law. However, the Legislature finds and declares that the addition of civil money penalties will provide necessary enforcement flexibility. The Legislature, in exercising its plenary authority related to workers' compensation, declares that these sections are both necessary and carefully tailored to combat the fraud and abuse that is rampant in the workers' compensation system.

(b) It is unlawful to do any of the following:

(1) Willfully misrepresent any fact in order to obtain workers' compensation insurance at less than the proper rate.

(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.

(3) Knowingly solicit, receive, offer, pay, or accept any rebate, refund, commission, preference, patronage, dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for soliciting or referring clients or patients to obtain services or benefits pursuant to Division 4 (commencing with Section 3200) unless the payment or receipt of consideration for services other than the referral of clients or patients is lawful pursuant to Section 650 of the Business and Professions Code or expressly permitted by the Rules of Professional Conduct of the State Bar.

(4) Knowingly operate or participate in a service that, for profit, refers or recommends clients or patients to obtain medical or medical-legal services or benefits pursuant to Division 4 (commencing with Section 3200).

(5) Knowingly assist, abet, solicit, or conspire with any person who

engages in an unlawful act under this section.

(c) For the purposes of this section, "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 expenses as defined in Section 4620, or other evidence of loss, expense, or payment.

(d) Any person who violates any provision of this section shall be subject, in addition to any other penalties that may be prescribed by law, to a civil penalty of not less than two thousand dollars ($2,000) nor more than five thousand dollars ($5,000), plus an assessment of not more than three times the amount of the medical treatment expenses paid pursuant to Article 2 (commencing with Section 4600) and medical-legal expenses paid pursuant to Article 2.5 (commencing with Section 4620) for each claim for compensation submitted in violation of this section.

(e) Any person who violates subdivision (b) and who has a prior felony conviction of an offense set forth in Section 1871.1 or 1871.4 of the Insurance Code, or in Section 549 of the Penal Code, shall be subject, in addition to the penalties set forth in subdivision (d), to a civil penalty of two thousand dollars ($2,000) for each item or service with respect to which a violation of subdivision (b) occurred.

(f) The penalties provided for in subdivisions (d) and (e) shall be assessed and recovered in a civil action brought in the name of the people of the State of California by any district attorney.

(g) In assessing the amount of the civil penalty the court shall consider any one or more of the relevant circumstances presented by any of the parties to the case, including, but not limited to, the following: the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net worth.

(h) All penalties collected pursuant to this section shall be paid to the Workers' Compensation Fraud Account in the Insurance Fund pursuant to Section 1872.83 of the Insurance Code. All costs incurred by district attorneys in carrying out this article shall be funded from the Workers' Compensation Fraud Account. It is the intent of the Legislature that the program instituted by this article be supported entirely from funds produced by moneys deposited into the Workers' Compensation Fraud Account from the imposition of civil money penalties for workers' compensation fraud collected pursuant to this section. All moneys claimed by district attorneys as costs of carrying out this article shall be paid pursuant to a determination by the Fraud Assessment Commission established by Section 1872.83 of the Insurance Code and on appropriation by the Legislature.

SEC. 27. Section 4060 of the Labor Code, as added by Chapter 121 of the Statutes of 1993, is amended to read:

4060. (a) This section shall apply to disputes over the compensability of any injury. This section shall not apply where

injury to any part or parts of the body is accepted as compensable by the employer.

(b) Neither the employer nor the employee shall be liable for any comprehensive medical-legal evaluation performed by other than the treating physician either in whole or in part on behalf of the employee prior to the filing of a claim form and prior to the time the claim is denied or becomes presumptively compensable under Section 5402. However, reports of treating physicians shall be admissible.

(c) If a medical evaluation is required to determine compensability at any time after the period specified in subdivision (b), and the employee is represented by an attorney, each party may select a qualified medical evaluator to conduct a comprehensive medical-legal evaluation. Neither party may obtain more than one comprehensive medical-legal report, provided, however, that any party may obtain additional reports at their own expense. The parties may, at any time, agree on one medical evaluator to evaluate the issues in dispute.

(d) If a medical evaluation is required to determine compensability at any time after the period specified in subdivision (b), and the employee is not represented by an attorney, the employer shall not seek agreement with the employee on a physician to prepare a comprehensive medical-legal evaluation. The employee may select a qualified medical evaluator to prepare a comprehensive medical-legal evaluation. The division shall assist unrepresented employees, and shall make available to them the list of medical evaluators compiled under Section 139.2. Neither party may obtain more than one comprehensive medical-legal report, provided, however, that any party may obtain additional reports at their own expense. If an employee has received a comprehensive medical-legal evaluation under this subdivision, and he or she later becomes represented by an attorney, he or she shall not be entitled to an additional evaluation at the employer's expense.

(e) Evaluations performed under this section shall not be limited to the issue of the compensability of the injury, but shall address all medical issues in dispute.

SEC. 28. Section 4061 of the Labor Code, as amended by Chapter 121 of the Statutes of 1993, is amended to read:

4061. (a) Together with the last payment of temporary disability indemnity, the employer shall, in a form prescribed by the administrative director pursuant to Section 138.4, provide the employee one of the following:

(1) Notice either that no permanent disability indemnity will be paid because the employer alleges the employee has no permanent impairment or limitations resulting from the injury or notice of the amount of permanent disability indemnity determined by the employer to be payable. The notice shall include information concerning how the employee may obtain a formal medical evaluation pursuant to subdivision (c) if he or she disagrees with the

position taken by the employer. If the employer determines permanent disability indemnity is payable, the employer shall advise the employee of the amount determined payable and the basis on which the determination was made and whether there is need for continuing medical care.

(2) Notice that permanent disability indemnity may be or is payable, but that the amount cannot be determined because the employee's medical condition is not yet permanent and stationary. The notice shall advise the employee that his or her medical condition will be monitored until it is permanent and stationary, at which time the necessary evaluation will be performed to determine the existence and extent of permanent impairment and limitations for the purpose of rating permanent disability and to determine the need for continuing medical care, or at which time the employer will advise the employee of the amount of permanent disability indemnity the employer has determined to be payable. If an employee is provided notice pursuant to this paragraph and the employer later takes the position that the employee has no permanent impairment or limitations resulting from the injury, or later determines permanent disability indemnity is payable, the employer shall in either event, within 14 days of the determination to take either position, provide the employee with the notice specified in paragraph (1).

(b) Each notice required by subdivision (a) shall describe the administrative procedures available to the injured employee and advise the employee of his or her right to consult an information and assistance officer or an attorney. It shall contain the following language:

"Should you decide to be represented by an attorney, you may or may not receive a larger award, but, unless you are determined to be ineligible for an award, the attorney's fee will be deducted from any award you might receive for disability benefits. The decision to be represented by an attorney is yours to make, but it is voluntary and may not be necessary for you to receive your benefits."

(c) If the parties do not agree to a permanent disability rating based on the treating physician's evaluation or the assessment of need for continuing medical care, and the employee is represented by an attorney, the employer shall seek agreement with the employee on a physician to prepare a comprehensive medical evaluation of the employee's permanent impairment and limitations and any need for continuing medical care resulting from the injury. If no agreement is reached within 10 days, or any additional time not to exceed 20 days agreed to by the parties, the parties may not later select an agreed medical evaluator. Evaluations of an employee's permanent impairment and limitations obtained prior to the period to reach agreement shall not be admissible in any proceeding before the appeals board. After the period to reach agreement has expired, either party may select a qualified medical evaluator to conduct the comprehensive medical evaluation. Neither party may obtain more

than one comprehensive medical-legal report, provided, however, that any party may obtain additional reports at their own expense.

(d) If the parties do not agree to a permanent disability rating based on the treating physician's evaluation, and if the employee is not represented by an attorney, the employer shall not seek agreement with the employee on a physician to prepare an additional medical evaluation. The employer shall immediately provide the employee with a form prescribed by the medical director with which to request assignment of a panel of three qualified medical evaluators. The employee shall select a physician from the panel to prepare a medical evaluation of the employee's permanent impairment and limitations and any need for continuing medical care resulting from the injury.

The report of the qualified medical evaluator and the reports of the treating physician or physicians shall be the only admissible reports and shall be the only reports obtained by the employee or the employer on the issues subject to this section. If the employee has received a comprehensive medical-legal evaluation under this subdivision, and he or she later becomes represented by an attorney, he or she shall not be entitled to an additional evaluation. In no event shall the employer be entitled to obtain another report in these cases.

(e) The represented employee shall be responsible for making an appointment with an agreed medical evaluator.

(f) The unrepresented employee shall be responsible for making an appointment with a qualified medical evaluator selected from a panel of three qualified medical evaluators. The evaluator shall give the employee, at the appointment, a brief opportunity to ask questions concerning the evaluation process and the evaluator's background. The unrepresented employee shall then participate in the evaluation as requested by the evaluator unless the employee has good cause to discontinue the evaluation. For purposes of this subdivision, "good cause" shall include evidence that the evaluator is biased against the employee because of his or her race, sex, national origin, religion, or sexual preference or evidence that the evaluator has requested the employee to submit to an unnecessary medical examination or procedure. If the unrepresented employee declines to proceed with the evaluation, he or she shall have the right to a new panel of three qualified medical evaluators from which to select one to prepare a comprehensive medical evaluation. If the appeals board subsequently determines that the employee did not have good cause to not proceed with the evaluation, the cost of the evaluation shall be deducted from any award the employee obtains.

(g) Upon selection or assignment pursuant to subdivision (c) or (d), the medical evaluator shall perform a comprehensive medical evaluation according to the procedures promulgated by the Industrial Medical Council under paragraphs (2) and (3) of subdivision (j) of Section 139.2 and summarize the medical findings on a form prescribed by the Industrial Medical Council. The comprehensive medical evaluation shall address all contested

medical issues arising from all injuries reported on one or more claim forms prior to the date of the employee's initial appointment with the medical evaluator. If, after a comprehensive medical evaluation is prepared, the employer or the employee subsequently objects to any new medical issue, the parties, to the extent possible, shall utilize the same medical evaluator who prepared the previous evaluation to resolve the medical dispute.

(h) Except as provided in Section 139.3, the medical evaluator may obtain consultations from other physicians who have treated the employee for the injury whose expertise is necessary to provide a complete and accurate evaluation.

(i) The qualified medical evaluator who has evaluated an unrepresented employee shall serve the comprehensive medical evaluation and the summary form on the employee, employer, and the administrative director. The unrepresented employee or the employer may submit the treating physician's evaluation for the calculation of a permanent disability rating. Within 20 days of receipt of the comprehensive medical evaluation, the administrative director shall calculate the permanent disability rating according to Section 4660 and serve the rating on the employee and employer.

(j) Any comprehensive medical evaluation concerning an unrepresented employee which indicates that part or all of an employee's permanent impairment or limitations may be subject to apportionment pursuant to Sections 4663 or 4750 shall first be submitted by the administrative director to a workers' compensation judge who may refer the report back to the qualified medical evaluator for correction or clarification if the judge determines the proposed apportionment is inconsistent with the law.

(k) Within 30 days of receipt of the rating, if the employee is unrepresented, the employee or employer may request that the administrative director reconsider the recommended rating or obtain additional information from the treating physician or medical evaluator to address issues not addressed or not completely addressed in the original comprehensive medical evaluation or not prepared in accord with the procedures of the Industrial Medical Council promulgated under paragraph (2) or (3) of subdivision (j) of Section 139.2. This request shall be in writing, shall specify the reasons the rating should be reconsidered, and shall be served on the other party. If the administrative director finds the comprehensive medical evaluation is not complete or not in compliance with the required procedures, the administrative director shall return the report to the treating physician or qualified medical evaluator for appropriate action as the administrative director instructs. Upon receipt of the treating physician's or qualified medical evaluator's final comprehensive medical evaluation and summary form, the administrative director shall recalculate the permanent disability rating according to Section 4660 and serve the rating, the comprehensive medical evaluation, and the summary form on the employee and employer.

(*l*) If a comprehensive medical evaluation from the treating physician or an agreed medical evaluator or a qualified medical evaluator selected from a three-member panel resolves any issue so as to require an employer to provide compensation, the employer shall commence the payment of compensation or promptly commence proceedings before the appeals board to resolve the dispute. If the employee and employer agree to a stipulated findings and award as provided under Section 5702 or to compromise and release the claim under Chapter 2 (commencing with Section 5000) of Part 3, or if the employee wishes to commute the award under Chapter 3 (commencing with Section 5100) of Part 3, the appeals board shall first determine whether the agreement or commutation is in the best interests of the employee and whether the proper procedures have been followed in determining the permanent disability rating. The administrative director shall promulgate a form to notify the employee, at the time of service of any rating under this section, of the options specified in this subdivision, the potential advantages and disadvantages of each option, and the procedure for disputing the rating.

(m) No issue relating to the existence or extent of permanent impairment and limitations or the need for continuing medical care resulting from the injury may be the subject of a declaration of readiness to proceed unless there has first been a medical evaluation by a treating physician or an agreed or qualified medical evaluator. With the exception of an evaluation or evaluations prepared by the treating physician or physicians, no evaluation of permanent impairment and limitations or need for continuing medical care resulting from the injury shall be obtained prior to service of the comprehensive medical evaluation on the employee and employer if the employee is unrepresented, or prior to the attempt to select an agreed medical evaluator if the employee is represented. Evaluations obtained in violation of this prohibition shall not be admissible in any proceeding before the appeals board. However, the testimony, records, and reports offered by the treating physician or physicians who treated the employee for the injury and comprehensive medical evaluations prepared by a qualified medical evaluator selected by an unrepresented employee from a three-member panel shall be admissible.

SEC. 29. Section 4062 of the Labor Code, as amended by Chapter 121 of the Statutes of 1993, is amended to read:

4062. (a) If either the employee or employer objects to a medical determination made by the treating physician concerning the permanent and stationary status of the employee's medical condition, the employee's preclusion or likely preclusion to engage in his or her usual occupation, the extent and scope of medical treatment, the existence of new and further disability, or any other medical issues not covered by Section 4060 or 4061, the objecting party shall notify the other party in writing of the objection within 20 days of receipt of the report if the employee is represented by an

attorney or within 30 days of receipt of the report if the employee is not represented by an attorney. These time limits may be extended for good cause or by mutual agreement. If the employee is represented by an attorney, the parties shall seek agreement with the other party on a physician, who need not be a qualified medical evaluator, to prepare a report resolving the disputed issue. If no agreement is reached within 10 days, or any additional time not to exceed 20 days agreed upon by the parties, the parties may not later select an agreed medical evaluator. Evaluations obtained prior to the period to reach agreement shall not be admissible in any proceeding before the appeals board. After the period to reach agreement has expired, the objecting party may select a qualified medical evaluator to conduct the comprehensive medical evaluation. Neither party may obtain more than one comprehensive medical-legal report, provided, however, that any party may obtain additional reports at their own expense. The nonobjecting party may continue to rely on the treating physician's report or may select a qualified medical evaluator to conduct an additional evaluation.

(b) If the employee is not represented by an attorney, the employer shall not seek agreement with the employee on a physician to prepare the comprehensive medical evaluation. The employer shall immediately provide the employee with a form prescribed by the medical director with which to request assignment of a panel of three qualified medical evaluators. The employee shall select a physician from the panel to prepare a comprehensive medical evaluation. The evaluation of the qualified medical evaluator selected from a panel of three and the reports of the treating physician or physicians shall be the only admissible reports and shall be the only reports obtained by the employee or employer on issues subject to this section in a case involving an unrepresented employee. If the employee has received a comprehensive medical-legal evaluation under this subdivision, and he or she later becomes represented by an attorney, he or she shall not be entitled to an additional evaluation.

(c) Upon completing a determination of the disputed medical issue, the physician selected under subdivision (a) or (b) to perform the medical evaluation shall summarize the medical findings on a form prescribed by the Industrial Medical Council and shall serve the formal medical evaluation and the summary form on the employee, employer, and administrative director. The medical evaluation shall address all contested medical issues arising from all injuries reported on one or more claim forms prior to the date of the employee's initial appointment with the medical evaluator. If, after a medical evaluation is prepared, the employer or the employee subsequently objects to any new medical issue, the parties, to the extent possible, shall utilize the same medical evaluator who prepared the previous evaluation to resolve the medical dispute.

(d) No disputed medical issue specified in subdivision (a) may be the subject of a declaration of readiness to proceed unless there has

first been an evaluation by the treating physician or an agreed or qualified medical evaluator.

(e) With the exception of a report or reports prepared by the treating physician or physicians, no report determining disputed medical issues set forth in subdivision (a) shall be obtained prior to the expiration of the period to reach agreement on the selection of an agreed medical evaluator under subdivision (a). Reports obtained in violation of this prohibition shall not be admissible in any proceeding before the appeals board. However, the testimony, records, and reports offered by the treating physician or physicians who treated the employee for the injury shall be admissible.

SEC. 30. Section 4064 of the Labor Code, as amended by Chapter 121 of the Statutes of 1993, is amended to read:

4064. (a) The employer shall be liable for the cost of each reasonable and necessary comprehensive medical-legal evaluation obtained by the employee pursuant to Sections 4060, 4061, and 4062. Each comprehensive medical-legal evaluation shall address all contested medical issues arising from all injuries reported on one or more claim forms. An unrepresented employee who has already obtained a medical evaluation under Sections 4060, 4061, or 4062 shall not obtain any additional comprehensive medical evaluations at the employer's expense for the same disputed medical issue.

(b) Subject to Section 4906, if an employer files an application for adjudication and the employee is unrepresented at the time the application is filed, the employer shall be liable for any attorney's fees incurred by the employee in connection with the application for adjudication.

(c) The employer shall not be liable for the cost of any comprehensive medical evaluations obtained by the employee other than those authorized pursuant to Sections 4060, 4061, and 4062. However, this does not prohibit any party from obtaining any medical evaluation or consultation an the party's own expense. In no event shall an employer or employee be liable for an evaluation obtained in violation of subdivision (b) of Section 4060. All comprehensive medical evaluations obtained by any party shall be admissible in any proceeding before the appeals board except as provided in subdivisions (d) and (m) of Section 4061 and subdivisions (b) and (e) of Section 4062.

SEC. 31. Section 4064 of the Labor Code, as added by Section 2 of Chapter 893 of the Statutes of 1989, is repealed.

SEC. 32. Section 4600.3 of the Labor Code, as added by Chapter 121 of the Statutes of 1993, is amended to read:

4600.3. (a) (1) Notwithstanding Section 4600, when a self-insured employer, group of self-insured employers, or the insurer of an employer contracts with at least two health care organizations certified pursuant to Section 4600.5 for health care services required by this article to be provided to injured employees, those employees who are subject to the contract shall receive medical services in the manner prescribed in the contract, providing

that the employee may choose to be treated by a personal physician or personal chiropractor he or she has designated prior to the injury, in which case the employee shall not be treated by the health care organization. Every employee shall be given an affirmative choice at the time of employment and at least annually thereafter to designate or change the designation of a health care organization or a personal physician or personal chiropractor. The choice shall be memorialized in writing and maintained in the employee's personnel records. The employee who has designated a personal physician or personal chiropractor may change physicians at any time prior to the injury. Any employee who fails to choose between health care organizations or to designate a personal physician or personal chiropractor shall be treated by the health care organization selected by the employer.

(2) Each such contract must comply with the certification standards provided in Section 4600.5, and shall provide all medical, surgical, chiropractic, and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches, and apparatus, including artificial members, that is reasonably required to cure or relieve the effects of the injury, as required by this division, without any payment by the employee of deductibles, copayments, or any share of the premium. However, an employee may receive immediate emergency medical treatment that is compensable from a medical service or health care provider who is not a member of the health care organization.

(3) The employee shall be allowed to choose from at least two health care organizations, of which at least one must be compensated on a fee-for-service basis. If one or more of the health care organizations offered by the employer is the workers' compensation insurer that covers the employee or is an entity that controls or is controlled by that insurer, as defined by Section 1215 of the Insurance Code, the employee shall be allowed to choose from at least one additional health care organization, that is not the workers' compensation insurer that covers the employee, or entities that control or are controlled by that insurer, of which at least one must be compensated on a fee-for-service basis.

(4) Insurers of employers, a group of self-insured employers, or self-insured employers who contract with a health care organization for medical services shall give notice to employees of eligible medical service providers and such other information regarding the contract and manner of receiving medical services as the administrative director may prescribe. Employees shall be duly notified that if they choose to receive care from the health care organization they must receive treatment for all occupational injuries and illnesses as prescribed by this section.

(b) Notwithstanding subdivision (a), no employer which is required to bargain with an exclusive or certified bargaining agent which represents employees of the employer in accordance with state or federal employer-employee relations law shall contract with a health care organization for purposes of Section 4600.5 with regard

to employees whom the bargaining agent is recognized or certified to represent for collective bargaining purposes pursuant to state or federal employer-employee relations law unless authorized to do so by mutual agreement between the bargaining agent and the employer. If the collective bargaining agreement is subject to the National Labor Relations Act, the employer may contract with a health care organization for purposes of Section 4600.5 at any time when the employer and bargaining agent have bargained to impasse to the extent required by federal law.

(c) (1) When an employee is not receiving or is not eligible to receive health care coverage for nonoccupational injuries or illnesses provided by the employer, if 90 days from the date the injury is reported the employee who has been receiving treatment from a health care organization or his or her physician, chiropractor, or other agent notifies his or her employer in writing that he or she desires to stop treatment by the health care organization, he or she shall have the right to be treated by a physician or at a facility of his or her own choosing within a reasonable geographic area.

(2) When an employee is receiving or is eligible to receive health care coverage for nonoccupational injuries or illnesses provided by the employer, and has agreed to receive care for occupational injuries and illnesses from a health care organization provided by the employer, the employee may be treated for occupational injuries and diseases by a physician of his or her own choice or at a facility of his or her own choice within a reasonable geographic area if the employee or his or her physician, chiropractor, or other agent notifies his or her employer in writing only after 180 days from the date the injury was reported, or upon the date of contract renewal or open enrollment of the health care organization, whichever occurs first, but in no case until 90 days from the date the injury was reported.

(3) If the employee is receiving or is eligible to receive health care coverage for nonoccupational injuries or illnesses provided by the employer, and his or her physician or chiropractor for nonoccupational illnesses or injuries is participating in at least one of the health care organizations offered to the employee, and he or she has chosen treatment by one of these health care organizations for occupational injuries or illnesses, the employee may be treated by a physician of his or her own choice or at a facility of his or her own choice within a reasonable geographic area if the employee or his or her physician, chiropractor, or other agent notifies his or her employer in writing only after 365 days from the date the injury was reported, or upon the date of contract renewal or open enrollment, whichever occurs first, but in no case until 90 days from the date the injury was reported.

(4) For purposes of this subdivision, an employer shall be deemed to provide health care coverage for nonoccupational injuries and illnesses if the employer pays more than one-half the costs of the coverage, or if the plan is established pursuant to collective

bargaining.

(d) An employee and employer may agree to other forms of therapy pursuant to Section 3209.7.

(e) An employee enrolled in a health care organization shall have the right to no less than one change of physician on request, and shall be given a choice of physicians affiliated with the health care organization. The health care organization shall provide the employee a choice of participating physicians within five days of receiving a request. In addition, the employee shall have the right to a second opinion from an participating physician on a matter pertaining to diagnosis from a participating physician.

(f) Nothing in this section or Section 4600.5 shall be construed to prohibit a self-insured employer, a group of self-insured employers, or insurer from engaging in any activities permitted by Section 4600.

(g) Notwithstanding subdivision (c), in the event that the employer, group of employers, or the employer's workers' compensation insurer no longer contracts with the health care organization that has been treating an injured employee, the employee may continue treatment provided or arranged by the health care organization. If the employee does not choose to continue treatment by the health care organization, the employer may control the employee's treatment for 30 days from the date the injury was reported. After that period, the employee may be treated by a physician of his or her own choice or at a facility of his or her own choice within a reasonable geographic area.

SEC. 33. Section 4600.5 of the Labor Code, as added by Chapter 121 of the Statutes of 1993, is amended to read:

4600.5. (a) Any health care service plan licensed pursuant to the Knox-Keene Health Care Service Plan Act, a disability insurer licensed by the Department of Insurance, or any entity, including, but not limited to, workers' compensation insurers and third-party administrators authorized as a workers' compensation health care provider organization by the Commissioner of Corporations, may make written application to the administrative director to become certified as a health care organization to provide health care to injured employees for injuries and diseases compensable under this article.

(b) Each application for certification shall be accompanied by a reasonable fee prescribed by the administrative director. A certificate is valid for such period as the director may prescribe unless sooner revoked or suspended.

(c) If the health care organization is a health care service plan licensed pursuant to the Knox-Keene Health Care Service Plan Act, the administrative director shall certify the plan to provide health care pursuant to Section 4600.3 if the director finds that the plan is in good standing with the Department of Corporations and meets the following additional requirements:

(1) Proposes to provide all medical and health care services that may be required by this article.

(2) Provides a program involving cooperative efforts by the employees, the employer, and the health plan to promote workplace health and safety, consultative and other services, and early return to work for injured employees.

(3) Proposes a timely and accurate method to meet the requirements set forth by the administrative director for all carriers of workers' compensation coverage to report necessary information regarding medical and health care service cost and utilization, rates of return to work, average time in medical treatment, and other measures as determined by the administrative director to enable the director to determine the effectiveness of the plan.

(4) Agrees to provide the administrative director with information, reports, and records prepared and submitted to the Department of Corporations in compliance with the Knox-Keene Health Care Service Plan Act, relating to financial solvency, provider accessibility, peer review, utilization review, and quality assurance, upon request, if the administrative director determines the information is necessary to verify that the plan is providing medical treatment to injured employees in compliance with the requirements of this code.

Disclosure of peer review proceedings and records to the administrative director shall not alter the status of the proceedings or records as privileged and confidential communications pursuant to Sections 1370 and 1370.1 of the Health and Safety Code.

(5) Demonstrates the capability to provide occupational medicine and related disciplines.

(6) Complies with any other requirement the administrative director determines is necessary to provide medical services to injured employees consistent with the intent of this article, including, but not limited to, a written patient grievance policy.

(d) If the health care organization is a disability insurer licensed by the Department of Insurance, the administrative director shall certify the plan to provide health care pursuant to Section 4600.3 if the director finds that the plan is in good standing with the Department of Insurance and in compliance with subdivision (d) of Section 10133 and Section 10133.5 of the Insurance Code, and meets the following additional requirements:

(1) Proposes to provide all medical and health care services that may be required by this article.

(2) Provides a program involving cooperative efforts by the employees, the employer, and the health plan to promote workplace health and safety, consultative and other services, and early return to work for injured employees.

(3) Proposes a timely and accurate method to meet the requirements set forth by the administrative director for all carriers of workers' compensation coverage to report necessary information regarding medical and health care service cost and utilization, rates of return to work, average time in medical treatment, and other measures as determined by the administrative director to enable the

director to determine the effectiveness of the plan.

(4) Agrees to provide the administrative director with information, reports, and records prepared and submitted to the Department of Insurance in compliance with the Insurance Code relating to financial solvency, provider accessibility, peer review, utilization review, and quality assurance, upon request, if the administrative director determines the information is necessary to verify that the plan is providing medical treatment to injured employees consistent with the intent of this article.

Disclosure of peer review proceedings and records to the administrative director shall not alter the status of the proceedings or records as privileged and confidential communications pursuant to subdivision (d) of Section 10133 of the Insurance Code.

(5) Demonstrates the capability to provide occupational medicine and related disciplines.

(6) Complies with any other requirement the administrative director determines is necessary to provide medical services to injured employees consistent with the intent of this article, including, but not limited to, a written patient grievance policy.

(e) If the health care organization is a workers' compensation health care provider organization authorized by the Department of Corporations, the administrative director shall certify the plan to provide health care pursuant to Section 4600.3 if the director finds that the plan is in good standing with the Department of Corporations, and it meets the following additional requirements:

(1) Proposes to provide all medical and health care services that may be required by this article.

(2) Provides a program involving cooperative efforts by the employees, the employer, and the health plan to promote workplace health and safety, consultative and other services, and early return to work for injured employees.

(3) Proposes a timely and accurate method to meet the requirements set forth by the administrative director for all carriers of workers' compensation coverage to report necessary information regarding medical and health care service cost and utilization, rates of return to work, average time in medical treatment, and other measures as determined by the administrative director to enable the director to determine the effectiveness of the plan.

(4) Agrees to provide the administrative director with information, reports, and records prepared and submitted to the Department of Corporations in compliance with Section 54 and Part 3.2 (commencing with Section 5150) relating to financial solvency, provider accessibility, peer review, utilization review, and quality assurance, upon request, if the administrative director determines the information is necessary to verify that the plan is providing medical treatment to injured employees consistent with the intent of this article.

Disclosure of peer review proceedings and records to the administrative director shall not alter the status of the proceedings

or records as privileged and confidential communications pursuant to subdivision (d) of Section 10133 of the Insurance Code.

(5) Demonstrates the capability to provide occupational medicine and related disciplines.

(6) Complies with any other requirement the administrative director determines is necessary to provide medical services to injured employees consistent with the intent of this article, including, but not limited to, a written patient grievance policy.

(f) The provisions of this section shall not affect the confidentiality or admission in evidence of a claimant's medical treatment records.

(g) Charges for services arranged for or provided by health care service plans certified by this section and which are paid on a capitated basis shall not be subject to the schedules adopted by the administrative director pursuant to Section 5307.1.

(h) Nothing in this section shall be construed to expand or constrict any requirements imposed by law on a health care service plan or insurer when operating as other than a health care organization pursuant to this section.

(i) In consultation with interested parties, including the Department of Corporations and the Department of Insurance, the administrative director shall adopt rules necessary to carry out this section.

(j) The administrative director shall refuse to certify or may revoke or suspend the certification of any health care organization under this section if the director finds that:

(1) The plan for providing medical treatment fails to meet the requirements of this section.

(2) A health care service plan licensed by the Department of Corporations, a workers' compensation health care provider organization authorized by the Department of Corporations, or a carrier licensed by the Department of Insurance is not in good standing with its licensing agency.

(3) Services under the plan are not being provided in accordance with the terms of a certified plan.

(k) (1) When an injured employee requests chiropractic treatment for work-related injuries, the health care organization shall provide the injured worker with access to the services of a chiropractor pursuant to guidelines for chiropractic care established by paragraph (2). Within five working days of the employee's request to see a chiropractor, the health care organization and any person or entity who directs the kind or manner of health care services for the plan shall refer an injured employee to an affiliated chiropractor for work-related injuries that are within the guidelines for chiropractic care established by paragraph (2). Chiropractic care rendered in accordance with guidelines for chiropractic care established pursuant to paragraph (2) shall be provided by duly licensed chiropractors affiliated with the plan.

(2) The health care organization shall establish guidelines for

chiropractic care in consultation with affiliated chiropractors who are participants in the health care organization's utilization review process for chiropractic care, which may include qualified medical evaluators knowledgeable in the treatment of chiropractic conditions. The guidelines for chiropractic care shall, at a minimum, explicitly require the referral of any injured employee who so requests to an affiliated chiropractor for the evaluation or treatment, or both of neuromusculoskeletal conditions.

(3) Whenever a dispute concerning the appropriateness or necessity of chiropractic care for work-related injuries arises, the dispute shall be resolved by the health care organization's utilization review process for chiropractic care in accordance with the health care organization's guidelines for chiropractic care established by paragraph (2).

Chiropractic utilization review for work-related injuries shall be conducted in accordance with the health care organization's approved quality assurance standards and utilization review process for chiropractic care. Chiropractors affiliated with the plan shall have access to the health care organization's provider appeals process and, in the case of chiropractic care for work-related injuries, the review shall include review by a chiropractor affiliated with the health care organization, as determined by the health care organization.

(4) The health care organization shall inform employees of the procedures for processing and resolving grievances, including those related to chiropractic care, including the location and telephone number where grievances may be submitted.

(5) All guidelines for chiropractic care and utilization review shall be consistent with the standards of this code that require care to cure or relieve the effects of the industrial injury.

SEC. 34. Section 4614 of the Labor Code, as added by Chapter 121 of the Statutes of 1993, is amended to read:

4614. (a) (1) Notwithstanding Section 5307.1, where the employee's individual or organizational provider of health care services rendered under this division and paid on a fee-for-service basis is also the provider of health care services under contract with the employee's health benefit program, and the service or treatment provided is included within the range of benefits of the employee's health benefit program, and paid on a fee-for-service basis, the amount of payment for services provided under this division, for a work-related occurrence or illness, shall be no more than the amount that would have been paid for the same services under the health benefit plan, for a non-work-related occurrence or illness.

(2) A health care service plan that arranges for health care services to be rendered to an employee under this division under a contract, and which is also the employee's organizational provider for nonoccupational injuries and illnesses shall be paid by the employer for services rendered under this division only on a capitated basis.

(b) (1) Where the employee's individual or organizational

provider of health care services rendered under this division who is not providing services under a contract is not the provider of health care services under contract with the employee's health benefit program or where the services rendered under this division are not within the benefits provided under the employer-sponsored health benefit program, the provider shall receive payment that is no more than the average of the payment that would have been paid by five of the largest preferred provider organizations by geographic region. Physicians, as defined in Section 3209.3, shall be reimbursed at the same averaged rates, regardless of licensure, for the delivery of services under the same procedure code. This subdivision shall not apply to a health care service plan that provides its services on a capitated basis.

(2) The administrative director shall identify the regions and the five largest carriers in each region. The carriers shall provide the necessary information to the administrative director in the form and manner requested by the administrative director. The administrative director shall make this information available to the affected providers on an annual basis.

(c) Nothing in this section shall prohibit an individual or organizational health care provider from being paid fees different from those set forth in the official medical fee schedule by an employer, insurance carrier, third-party administrator on behalf of employers, or preferred provider organization representing an employer or insurance carrier provided that the administrative director has determined that the alternative negotiated rates between the organizational or individual provider and a payor, a third-party administrator on behalf of employers, or a preferred provider organization will produce greater savings in the aggregate than if each item on billings were to be charged at the scheduled rate.

(d) For the purposes of this section, "organizational provider" means an entity that arranges for health care services to be rendered directly by individual caregivers. An organizational provider may be a health care service plan, disability insurer, health care organization, preferred provider organization, or workers' compensation insurer arranging for care through a managed care network or on a fee-for-service basis. An individual provider is either an individual or institution that provides care directly to the injured worker.

SEC. 35. Section 4614.1 of the Labor Code, as added by Chapter 121 of the Statutes of 1993, is amended to read:

4614.1. Notwithstanding subdivision (f) of Section 1345 of the Health and Safety Code, a health care service plan licensed pursuant to the Knox-Keene Health Care Service Plan Act and certified by the administrative director pursuant to Section 4600.5 to provide health care pursuant to Section 4600.3 shall be permitted to accept payment from a self-insured employer, a group of self-insured employers, or the insurer of an employer on a fee-for-service basis for the provision

of such health care as long as the health care service plan is not both the health care organization in which the employee is enrolled and the plan through which the employee receives regular health benefits.

SEC. 35.2. Section 4638 of the Labor Code, as amended by Chapter 121 of the Statutes of 1993, is amended to read:

4638. (a) If the employee is determined to be a qualified injured worker, and the employer notifies the injured worker, pursuant to paragraph (1) of subdivision (d) of Section 4636 that the employer will be unable to provide modified or alternative work to that injured worker, the qualified rehabilitation representative and the employee, jointly, shall develop an agreed-upon vocational rehabilitation plan pursuant to subdivision (e) of Section 4635.

Vocational rehabilitation plans which utilize an employee's transferable skills and experience shall be preferable to plans that propose training for an occupation in which the employee has no skills or experience.

An insured employer in whose employment the injury occurred shall receive a refund, payable in the same manner as a return of a standard insurance premium, from the insurer that provided the security for the payment of compensation on the date of injury when the employer, pursuant to Section 4644, returns the qualified injured worker to modified or alternative work at the employer's place of employment for 12 consecutive months. The refund shall be equal to the standard premium computed on the wages paid by the employer to the qualified injured worker during the 12-month period and shall be calculated as follows: multiply the workers' compensation insurance premium rate times the wages reported for workers' compensation insurance for the qualified injured worker during that 12-month period. For this calculation, the workers' compensation insurance rate shall be the insurance premium rate or rates per one hundred dollars ($100) of payroll which were applicable to the payroll reported for the qualified injured worker during that 12-month period, modified by the experience modification factor or factors, if any, which were applicable to the employer during that 12-month period. During and after the 12-month period, the qualified injured worker shall be protected against discrimination pursuant to Section 132a.

(b) Within 90 days after determination of the employee's vocational feasibility, the employer shall do either of the following:

(1) Submit a vocational rehabilitation plan agreed to by the employee to the Office of Benefit Determination for review and approval when required pursuant to Section 139.5.

(2) Request the Office of Benefit Determination to resolve any dispute concerning the provision of vocational rehabilitation services.

SEC. 35.5. Section 4644 of the Labor Code, as amended by Chapter 121 of the Statutes of 1993, is amended to read:

4644. (a) The liability of the employer for vocational

rehabilitation services shall terminate when any of the following events occur:

(1) An employee who has received notice of potential eligibility to participate in a rehabilitation plan under Section 4637 declines vocational rehabilitation services in the form and manner prescribed by the administrative director.

(2) A qualified injured worker completes a vocational rehabilitation plan except as otherwise provided in subdivisions (c) and (d).

(3) The qualified injured worker unreasonably failed to complete a vocational rehabilitation plan.

(4) An employee has not requested vocational rehabilitation services within 90 days of the notification that the employee is medically eligible for vocational rehabilitation services. The liability of the employer for vocational rehabilitation services shall not terminate under this paragraph unless the employer, not earlier than 45 days nor later than 70 days after the employee's receipt of the notice required by Section 4637, reminds the employee of his or her right to vocational rehabilitation services or until the 21st day after the employee receives the reminder notification. The reminder notification shall be in writing, in the form and manner prescribed by the administrative director, and shall be served by certified mail. The provisions of this paragraph shall not apply if the employee shows he or she was unable to comprehend the consequences of failing to timely request vocational rehabilitation services, or that, because of conditions beyond the control of the employee, the employee was unable to exercise his or her right to accept or decline vocational rehabilitation services.

(5) The employer offers, and the employee accepts or rejects, in the form and manner prescribed by the administrative director, modified work lasting at least 12 months, provided that an employer who offers modified work that is available for the 12-month period required by this paragraph meets the requirements of this paragraph even if the employee voluntarily quits prior to the end of that 12-month period.

(6) The employer offers and the employee accepts or rejects, in the form and manner prescribed by the administrative director, alternative work meeting all of the following conditions:

(A) The employee has the ability to perform the essential functions of the job provided.

(B) The job provided is in a regular position lasting at least 12 months. An employer who offers alternative work that is available for the 12-month period required by this paragraph meets the requirements of this paragraph even if the employee voluntarily quits prior to the end of the 12-month period.

(C) The job provided offers wages and compensation that are within 15 percent of those paid to the employee at the time of injury.

(D) The job is located within reasonable commuting distance of the employee's residence at the time of injury.

(7) The employer offers, and the employee accepts, in the form and manner prescribed by the administrative director, work not meeting the conditions of paragraph (5) or (6) provided that the work lasts at least 12 months. The employee shall be required to reject the offer, in the form and manner prescribed by the administrative director, in order for the employee to be eligible for vocational rehabilitation services. An employer who offers work that is available for the 12-month period meets the requirements of this paragraph, even if the employee voluntarily quits prior to the end of that 12-month period.

(b) Nothing in this article shall preclude the deferral or interruption of vocational rehabilitation services upon agreement of the employee and employer or, if no agreement can be reached, upon a good cause determination by the administrative director.

(c) Except as provided in this section, vocational rehabilitation plans prepared pursuant to Section 4638 shall be limited to one plan per injured worker. The plans shall be completed within an 18-month period after approval of the plan, and shall not include a period of job placement exceeding 60 days. The employee shall be entitled to one additional vocational rehabilitation plan only if the original plan is determined to be inappropriate due to one of the following:

(1) The employee's disability has deteriorated to the point where the worker is unable to meet the physical demands of the first plan.

(2) The first plan is disrupted due to circumstances beyond the control of the employee.

(3) Failure by the employer to provide timely service required by this article and the vocational rehabilitation plan when the plan has not been completed.

The cost of the original and the additional plan plus all other vocational rehabilitation costs shall not exceed the overall cap and the counselor fee cap established in subdivision (c) of Section 139.5.

(d) Notwithstanding subdivision (c), an employee may apply to the rehabilitation unit for approval of a second vocational rehabilitation plan which exceeds the overall cap provided for in subdivision (c) of Section 139.5 if all of the following conditions are met:

(1) The employee has a permanent disability rating of 25 percent or greater. In reaching this determination, the rehabilitation unit shall consider any treating physicians' reports.

(2) The first plan cannot be completed due to circumstances beyond the control of the employee. Those circumstances include the deterioration of the employee's disability to the point where the worker cannot meet the requirements of the first plan.

(3) The rehabilitation unit finds that a second plan is necessary to provide the employee the opportunity for suitable gainful employment. Approval for circumstances other than a change in the employee's disability must be based on objective and verifiable facts pursuant to rules promulgated by the administrative director.

However, in no case shall the cost solely attributable to the second plan exceed the overall cap and the counseling fee cap contained in subdivision (c) of Section 139.5.

(e) Notwithstanding subdivision (c), an employee may receive a second vocational rehabilitation plan that exceeds the overall cap provided for in subdivision (c) of Section 139.5 if the rehabilitation unit finds that the employee cannot complete the plan because the school or other training facility has closed or the worker has a sudden and unexpected change in disability that renders the plan inappropriate or other similar circumstances.

(f) Notwithstanding paragraph (2) of subdivision (a), if a qualified injured worker returns to modified or alternative work with the same employer or to work with a different employer as a result of direct job placement assistance and that employment terminates, other than for cause, within 12 months of the date the employee was employed at the modified or alternative work, and if that work is unavailable in the labor market, the employer shall be liable, subject to Section 4642, for additional vocational rehabilitation services, provided that the employer's liability for vocational rehabilitation services shall terminate if the employee voluntarily quits prior to the end of that 12-month period. To qualify for additional vocational rehabilitation services, the employee shall demonstrate an inability to compete for suitable gainful employment with his or her existing skills.

(g) An employer shall not be liable to provide vocational rehabilitation services at a location outside the state, unless upon agreement of the employer and the employee, or a determination by the Division of Workers' Compensation that those services are more cost-effective than similar services provided in the state.

SEC. 36. Section 5158 of the Labor Code, as added by Chapter 121 of the Statutes of 1993, is amended to read:

5158. It is unlawful for any person, other than a provider as defined by subdivision (g) of Section 5156 providing workers' compensation health care pursuant to a contract with an authorized and certified workers' compensation health care provider organization, but only when that provider renders health care pursuant to that contract, to engage in business as a workers' compensation health care provider organization in this state or to receive compensation or other consideration in connection with a workers' compensation health care provider organization from or on behalf of persons in this state unless such person has first secured from the commissioner and Administrative Director of the Department of Industrial Relations an authorization and certification, respectively, then in effect, as a workers' compensation health care provider organization to provide health care for work-related injuries under Sections 4600.3 and 4600.5, unless such person is (a) exempted by the provisions of subdivision (c) and (d) of Section 4600.5, or a provider, as defined by subdivision (h) of Section 1345 of the Health and Safety Code, providing health care

services pursuant to a contract with a licensed health care service plan exempt under subdivision (c) of Section 4600.5, but only when that provider renders services pursuant to that contract; or a person providing health care services pursuant to a contract with an admitted disability insurer exempt under subdivision (d) of Section 4600.5, but only when that person renders services pursuant to that contract; or (b) engaging in any activities permitted by Section 4600 or exempted by a rule adopted thereunder.

SEC. 37. Section 5307.1 of the Labor Code, as amended by Chapter 121 of the Statutes of 1993, is amended to read:

5307.1. (a) (1) The administrative director, after public hearings, shall adopt and revise, no less frequently than biennially, an official medical fee schedule which shall establish reasonable maximum fees paid for medical services provided pursuant to this division. No later than January 1, 1995, the administrative director shall have revised the schedule. By no later than January 1, 1995, the schedule shall include services for health care facilities licensed pursuant to Section 1250 of the Health and Safety Code, and drugs and pharmacy services. The fee schedule for health care facilities shall take into consideration cost and service differentials for various types of facilities.

(2) The administrative director shall include services provided by physical therapists in the official fee schedule adopted and revised pursuant to paragraph (1). Nothing in this paragraph shall affect the ability of physicians to continue to be reimbursed for their services in accordance with the official medical fee schedule adopted pursuant to paragraph (1) for the provision of services within their scope of practice.

(3) The administrative director shall consult with statewide professional organizations representing affected providers on the update of the official medical fee schedule.

(b) Nothing in this section shall prohibit a medical provider or a licensed health care facility from being paid by an employer or carrier fees in excess of those set forth on the official medical fee schedule, provided that the fee is:

(1) Reasonable.

(2) Accompanied by itemization and justified by an explanation of extraordinary circumstances related to the unusual nature of the medical services rendered.

In no event shall a physician charge in excess of his or her usual fee.

(c) In the event of a dispute between the physician and the employer or carrier concerning the medical fees charged, the physician may be allowed a reasonable fee for testimony, if a physician testifies pursuant to the employer's or carrier's subpoena, and the referee determines that the medical fee charged was reasonable.

(d) Except as provided in Section 4626, the official medical fee schedule shall not apply to medical-legal expenses as defined by

Section 4620.

SEC. 38. Section 5307.6 of the Labor Code, as amended by Chapter 121 of the Statutes of 1993, is amended to read:

5307.6. (a) The administrative director shall adopt and revise a fee schedule for medical-legal expenses as defined by Section 4620, which shall be prima facie evidence of the reasonableness of fees charged for medical-legal expenses at the same time he or she adopts and revises the medical fee schedule pursuant to Section 5307.1.

The schedule shall consist of a series of procedure codes, relative values, and a conversion factor producing fees which provide remuneration to physicians performing medical-legal evaluations at a level equivalent to that provided to physicians for reasonably comparable work, and which additionally recognizes the relative complexity of various types of evaluations, the amount of time spent by the physician in direct contact with the patient, and the need to prepare a written report.

(b) A provider shall not be paid fees in excess of those set forth in the fee schedule established under this section unless the provider provides an itemization and explanation of the fee that shows that it is both a reasonable fee and that extraordinary circumstances relating to the medical condition being evaluated justify a higher fee; provided, however, that in no event shall a provider charge in excess of his or her usual fee. The employer and employee shall have standing to contest fees in excess of those set forth in the fee schedule.

(c) In the event of a dispute between the provider and the employer, employee, or carrier concerning the fees charged, the provider may be allowed a reasonable fee for testimony if the provider testified pursuant to the employer's or carrier's subpoena and the judge or referee determines that the fee charged was reasonable and justified by extraordinary circumstances.

(d) (1) No provider may request nor accept any compensation, including, but not limited to, any kind of remuneration, discount, rebate, refund, dividend, distribution, subsidy, or other form of direct or indirect payment, whether in money or otherwise, from any source for medical-legal expenses if such compensation is in addition to the fees authorized by this section. In addition to being subject to discipline pursuant to the provisions of subdivision (k) of Section 139.2, any provider violating this subdivision is subject to disciplinary action by the appropriate licensing board.

(2) This subdivision does not apply to medical-legal expenses for which the administrative director has not adopted a fee schedule.

SEC. 39. Section 5401 of the Labor Code, as amended by Chapter 121 of the Statutes of 1993, is amended to read:

5401. (a) Within one working day of receiving notice or knowledge of injury under Section 5400 or 5402, which injury results in lost time beyond the date of injury or which results in medical treatment beyond first aid, the employer shall provide, personally or by first-class mail, a claim form and a notice of potential eligibility for

benefits under this division to the injured employee, or in the case of death, to his or her dependents. As used in this subdivision, "first aid" means any one-time treatment of minor scratches, cuts, burns, splinters, or other minor industrial injury. "Minor industrial injury" shall not include serious exposure to a hazardous substance as defined in subdivision (i) of Section 6302. The claim form shall request the injured employee's name and address, social security number, the time and address where the injury occurred, and the nature of and part of the body affected by the injury. The notice shall include a description of the procedures and assistance available to the employee on his or her own behalf, the procedure to be used to commence proceedings for the collection of compensation for the purposes of this chapter, the telephone number of the division's information and assistance services, and a statement that the employee has a right to consult an attorney or information and assistance officer, or both, for assistance. Claims forms shall be available at district offices of the Employment Development Department and the division. Claims forms may be made available to the employee from any other source.

(b) The completed claim form shall be filed with the employer by the injured employee, or, in the case of death, by a dependent of the injured employee, or by an agent of the employee or dependent. Except as provided in subdivision (c), a claim form is deemed filed when it is personally delivered to the employer or received by the employer by first-class or certified mail. A dated copy of the completed form shall be provided by the employer to the employer's insurer and to the employee, dependent, or agent who filed the claim form.

(c) The claim form shall be filed with the employer prior to the injured employee's entitlement to late payment supplements under subdivision (d) of Section 4650, or prior to the injured employee's request for a medical evaluation under Section 4060, 4061, or 4062. Filing of the claim form with the employer shall toll the time limitations set forth in Sections 5405 and 5406 until the claim is denied by the employer or the injury becomes presumptively compensable pursuant to Section 5402. For purposes of this subdivision, a claim form is deemed filed when it is personally delivered to the employer or mailed to the employer by first-class or certified mail.

SEC. 40. Section 5404.5 of the Labor Code, as added by Chapter 121 of the Statutes of 1993, is amended to read:

5404.5. (a) Where a claim form has been filed prior to January 1, 1994, and where the claim is denied by the employer, the claim may be dismissed if there has been no activity for the previous 180 days and if the claims adjuster has served notice pursuant to Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of the Code of Civil Procedure. The notice shall specify that the claim will be dismissed by operation of law unless an application for adjudication of the claim is filed within 180 days of service of the notice.

(b) Where a claim form has been filed prior to January 1, 1994, and

where benefits have been furnished by the employer, the claim may be dismissed if there has been no activity for the previous 180 days and if the claims adjuster has served notice pursuant to Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of the Code of Civil Procedure. The notice shall specify that the claim will be dismissed by operation of law unless an application for adjudication of the claim is filed within five years of the date of injury or within one year of the last furnishing of benefits, whichever is later.

(c) The administrative director may adopt rules of practice and procedure consistent with this section.

(d) The provisions of subdivisions (a) and (b) do not limit the jurisdiction of the appeals board.

(e) This section is applicable to injuries occurring before January 1, 1994.

SEC. 41. Section 5813 of the Labor Code, as added by Chapter 121 of the Statutes of 1993, is amended to read:

5813. (a) The workers' compensation referee or appeals board may order a party, the party's attorney, or both, to pay any reasonable expenses, including attorney's fees and costs, incurred by another party as a result of bad-faith actions or tactics that are frivolous or solely intended to cause unnecessary delay. In addition, a workers' compensation referee or the appeals board, in its sole discretion, may order additional sanctions not to exceed two thousand five hundred dollars ($2,500) to be transmitted to the General Fund.

(b) The determination of sanctions shall be made after written application by the party seeking sanctions or upon the appeal board's own motion.

(c) This section shall apply to all applications for adjudication that are filed on or after January 1, 1994.

SEC. 42. Section 75 of Chapter 121 of the Statutes of 1993 is amended to read:

Sec. 75. Nothing in Section 4600.3, 4600.5, or 4614 of the Labor Code, or in the Workers' Compensation Health Care Provider Organization Act of 1993, shall be deemed to supersede or limit the operation of pilot projects approved by the administrative director pursuant to Section 4612 of the Labor Code. No provision or requirement of Sections 4600.3, 4600.5, or 4614 of the Labor Code, or in the Workers' Compensation Health Care Provider Organization Act of 1993, shall be deemed applicable to those pilot projects, or impose any requirements on them for any purpose.

SEC. 43. Section 7 of Chapter 228 of the Statutes of 2993 is amended to read:

Sec. 7. (a) Sections 1 to 5, inclusive, of this act shall become operative January 1, 1995.

(b) In addition, in order to permit the implementation of the rating law contained in Article 2 (commencing with Section 11730) of Chapter 3 of Part 3 of Division 2 of the Insurance Code, as added by Section 2 of Chapter 228 of the Statutes of 1993, on January 1, 1995,

the Insurance Commissioner, insurers, and other persons may take actions under that article necessary to fully implement it at that date, including the following:

(1) The commissioner shall designate a rating organization pursuant to subdivision (b) of Section 11734 of the Insurance Code, as contained in that article, and shall require the designated rating organization to provide the rules and other information required by Section 11734 of the Insurance Code so that the commissioner may make the approvals required by Section 11734 of the Insurance Code by October 1, 1994, for use effective January 1, 1995.

(2) Insurers may make the filings required by subdivision (a) of Section 11735 of the Insurance Code, as contained in that article, after the commissioner has made the approvals required by subdivision (a) of Section 11734 of the Insurance Code and paragraph (1), above.

(3) The commissioner may adopt rules and regulations to give effect to this subdivision. The adoption of the regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, regulations adopted by the commissioner in order to implement this section shall not be subject to the review and approval of the Office of Administrative Law, and shall become effective immediately upon filing with the Secretary of State.

SEC. 44. The elimination of subdivision (d) of Section 4064 of the Labor Code made by this act shall not affect the applicability of Section 4064 of the Labor Code, as it existed prior to changes made during the 1993 portion of the 1993-94 Regular Session, to injuries arising prior to those changes.

SEC. 45. (a) The sum of seven million five hundred thousand dollars ($7,500,000) is appropriated from the Workers' Compensation Fraud Account in the Insurance Fund in augmentation of Item 2290-001-217, Program 20-Fraud Control, of the Budget Act of 1993, for support of the Department of Insurance for the purposes of enhanced workers' compensation fraud investigation efforts of the department.

(b) The sum of seven million five hundred thousand dollars ($7,500,000) is appropriated from the Workers' Compensation Fraud Account in the Insurance Fund in augmentation of Item 2290-101-217, Program 20-Fraud Control, of the Budget Act of 1993, for local assistance, Department of Insurance, for the purposes of distribution to district attorneys to enhance investigation and prosecution of workers' compensation insurance fraud cases.

CHAPTER 1243

An act to add and repeal Article 1.5 (commencing with Section 8275) of Chapter 3.5 of Division 1 of Title 2 of the Government Code, relating to the California Constitution Revision Commission, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. The Legislature finds and declares the following:

(a) California's budget process has become crippled by a complex entanglement of constraints that interfere with an orderly and comprehensive consideration of all fiscal matters. A complete review of the process by an independent citizens' commission would provide the Legislature a basis for considering changes that would result in a more thoughtful and deliberative process.

(b) The legislative process has at times become mired in gridlock. Rivalries between the two houses of the Legislature and the executive branch have deterred the state's ability to make significant policy changes in response to the changing times. Changes to existing government organizational structures may provide a more responsive and productive form of governance for California than the current system.

(c) California's existing "system" of government is dysfunctional and does not work together sufficiently to achieve the public's goals. The various components have no common conception of mission and often work at cross-purposes.

SEC. 2. Article 1.5 (commencing with Section 8275) is added to Chapter 3.5 of Division 1 of Title 2 of the Government Code, to read:

Article 1.5. California Constitution Revision Commission

8275. There is created in state government the California Constitution Revision Commission.

8275.1. (a) The commission shall consist of 23 members, as follows:

(1) Ten members appointed by the Governor. No more than six members may be registered with the same political party.

(2) Five members appointed by the Speaker of the Assembly. No more than three members may be registered with the same political party. Two members shall be appointed in consultation with the Assembly Minority Caucus.

(3) Five members appointed by the Senate Committee on Rules. No more than three members may be registered with the same political party. Two members shall be appointed in consultation with

the Senate Minority Caucus.

(4) The Chief Justice of California, or his or her designee.

(5) The Legislative Analyst, or his or her designee.

(6) The Director of Finance, or his or her designee.

The Governor, the Senate Committee on Rules, and the Speaker of the Assembly may each appoint no more than one Member of the Legislature to the commission. No lobbyist, as defined in Section 82039, may serve as a member of the commission. The membership of the commission shall broadly reflect the ethnic, racial, cultural, geographic, and gender diversity of the state.

(b) The initial appointments to the commission shall be made not later than 90 days after this article becomes operative.

8275.2. Each member of the commission shall serve without compensation, but each member other than an elected officer shall receive one hundred dollars ($100) for each day while on official business of the commission. In addition, each member shall also be entitled to receive necessary expenses actually incurred in the performance of his or her duties.

8275.3. (a) The Governor shall select one of the members as the chair of the commission.

(b) The commission may appoint an executive secretary and fix his or her compensation in accordance with law. The commission may employ and fix the compensation, in accordance with law, of any professional, clerical, and other assistants that may be necessary.

(c) The Legislative Counsel, Legislative Analyst, State Auditor, and the Department of Finance shall assist the commission in the performance of its duties.

8275.4. The commission shall assist the Governor and the Legislature by doing the following:

(a) Examining the process by which a budget is formulated and enacted by state government, the manner in which the budget serves the future needs of the state, the appropriate balance of resources and spending by the state, and the fiscal relations of the state, federal, and local governments, and any constraints and impediments that interfere with an orderly and comprehensive consideration of all fiscal matters that impact upon the development of a budget for the state.

(b) Examining the structure of state governance and proposed modifications that may increase accountability and improve the process of formulation, consideration, and approval of policy determinations and a budget for the state.

(c) Examining the current configuration of state and local government duties, responsibilities, and priorities; the fiscal relations of state and local governments; the types of services delivered; mechanisms of service delivery; desired program outcomes; and methods of performance measurement; and any constraints or impediments that interfere with the most effective allocation of state and local responsibilities.

(d) Examining the feasibility of integrating community resources

into service delivery mechanisms in order to reduce duplication and increase efficiency, and the feasibility of community coalitions making recommendations to local entities regarding a community's vision and goals.

8275.5. The commission shall submit a report to the Governor and the Legislature no later than August 1, 1995, that sets forth its findings with respect to the mandate in Section 8275.4. The commission should submit interim reports before that date whenever it makes a finding and recommendation on a specific topic.

8275.6. In carrying out its duties and responsibilities, the commission shall have the following powers:

(a) To meet at times and places as it may deem proper. The commission is a state body subject to the provisions of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3).

(b) To issue subpoenas to compel the attendance of witnesses and the production of books, records, papers, accounts, reports, and documents.

(c) To administer oaths.

(d) To contract, as it deems necessary, for the rendition of services, facilities, studies, and reports to the commission as will best assist it to carry out its duties and responsibilities.

(e) To cooperate with and to secure the cooperation of county, city, city and county, and other local law enforcement agencies in investigating any matter within the scope of its duties and responsibilities, and to direct the sheriff of any county or any marshal to serve subpoenas, orders, and other process.

(f) To secure directly from every department, agency, or instrumentality full cooperation, access to its records, and access to any information, suggestions, estimates, data, and statistics that it may have available.

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

8275.7. This article shall become inoperative on July 1, 1996, and, as of January 1, 1997, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1997, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. The sum of two hundred thousand dollars ($200,000) is hereby appropriated from the General Fund for the 1993–94 fiscal year to the California Constitution Revision Commission established by this act to carry out its duties and responsibilities under this 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:

In order for the California Constitution Revision Commission, created by this act, to carry out its functions and duties as soon as

possible, it is necessary that this act take effect immediately.

CHAPTER 1244

An act to amend Sections 11756, 11765, 11836, 11836.10, 11836.12, 11837, and 11837.5 of, and to add Section 11837.3 to, the Health and Safety Code, and to amend Sections 13352, 13352.5, 13353, 13353.2, 13353.4, 13353.7, 13557, 23157, 23158.2, 23158.5, 23161, 23171, 23181, 23211, 23241, 23246, and 23247 of, and to repeal Section 23168 of, the Vehicle Code, relating to vehicles.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 11756 of the Health and Safety Code is amended to read:

11756. The department relative to the statewide alcohol program, in addition to the duties provided for in Section 11755, shall do all of the following:

(a) Cooperate with other governmental agencies and the private sector in establishing, conducting, and coordinating alcohol programs and projects pursuant to Chapter 2 (commencing with Section 11775).

(b) Cooperate with other state agencies to encourage appropriate health facilities to recognize, without discrimination, persons with alcohol problems who also require medical care and to provide them with adequate and appropriate services.

(c) Encourage counties to coordinate alcohol services, where appropriate, with county health and social service programs, or with regional health programs pursuant to Article 2 (commencing with Section 11821) of Chapter 5.

(d) Encourage the utilization, support, assistance, and dedication of interested persons in the community in order to increase the number of persons with alcohol problems who voluntarily seek appropriate services to alleviate those problems.

(e) Evaluate or require the evaluation, including the collection of appropriate and necessary information, of alcohol programs pursuant to Chapter 6 (commencing with Section 11825).

(f) Review and license driving-under-the-influence programs.

(g) Perform all other duties specifically required pursuant to this part.

SEC. 2. Section 11765 of the Health and Safety Code is amended to read:

11765. (a) "County board of supervisors" includes county boards of supervisors in the case of counties acting jointly.

(b) "Agency" means the Health and Welfare Agency.

(c) "Secretary" means the Secretary of the Health and Welfare Agency.

(d) "County alcohol program plan" or "program plan" means the county alcohol plan, including a budget, adopted by the board of supervisors pursuant to Chapter 4 (commencing with Section 11795).

(e) "Board" means the State Advisory Board established pursuant to Section 11780.

(f) "Advisory board" means the county advisory board on alcohol problems established at the sole discretion of the county board of supervisors pursuant to Section 11805. If a county does not establish an advisory board, then any provision of this chapter relative to the activities, duties, and functions of the advisory board shall be inapplicable to that county.

(g) "Alcohol program administrator" means the county alcohol program administrator designated pursuant to Section 11800.

(h) "State alcohol program" includes all statewide alcohol projects administered by the department and all county alcohol programs funded under this part.

(i) "Health systems agency" means the health planning agency established pursuant to federal legislation cited as Public Law 93-641 of 1974.

(j) "Alcohol problems" means problems of individuals, families, and the community which are related to inappropriate alcohol use, and includes conditions usually associated with the terms "alcoholism" and "alcohol abuse."

(k) "Problem drinker" means anyone who has a problem related to the consumption of alcoholic beverages whether of a periodic or continuing nature, including, but not limited to, persons referred to as "alcoholics," "alcohol abusers," and "drinking drivers." These problems may be evidenced by substantial impairment to the person's physical, mental, or social well-being which adversely affects his or her abilities to function in the community.

(*l*) "Alcohol service" means any service that is specifically and uniquely designed to encourage recovery from problem drinking and to alleviate or preclude alcohol problems in the individual, his or her family, and the community.

(m) "Alcohol program" means a collection of alcohol services which are coordinated to achieve the specified objectives of this part.

(n) "Driving-Under-the-Influence Program," "DUI Program," or "Licensed Program" means an alcohol and other drug service which has been issued a valid license by the department to provide services pursuant to Chapter 9 (commencing with Section 11836).

(o)"Clients-participants" means recipients of alcohol recovery program services.

SEC. 3. Section 11836 of the Health and Safety Code is amended to read:

11836. (a) The department shall have the sole authority to issue, deny, suspend, or revoke the license of a driving-under-the-influence

program. As used in this chapter "program" means any firm, partnership, association, corporation, local governmental entity, agency or place that has been initially recommended by the county board of supervisors and that is subsequently licensed by the department to provide alcohol or drug recovery services to either a (1) person whose license to drive has been administratively suspended or revoked for, or who is convicted of, a violation of Section 23152 or 23153 of the Vehicle Code, and admitted to a program pursuant to Section 13352, 13353.4, 23161, 23166, 23171, 23176, 23181, 23186, or 23191 of the Vehicle Code, or (2) a person who is convicted of a violation of subdivision (b), (c), (d), or (e) of Section 655 of the Harbors and Navigation Code, or of Section 655.4 of that code, and admitted to the program pursuant to Section 668 of that code.

(b) If a firm, partnership, corporation, association, local government entity, agency, or place has, or is applying for, more than one license, the department shall treat each licensed program, or each program seeking licensure, as belonging to a separate firm, partnership, corporation, association, local government entity, agency, or place for the purposes of this chapter.

SEC. 4. Section 11836.10 of the Health and Safety Code is amended to read:

11836.10. No person, firm, partnership, association, corporation, or local governmental entity shall operate, establish, manage, conduct, or maintain a driving-under-the-influence program in this state without a current and valid license issued pursuant to this chapter.

SEC. 5. Section 11836.12 of the Health and Safety Code is amended to read:

11836.12. Criteria for licensure of new or existing programs shall include all of the following:

(a) Completion of a written application containing necessary and pertinent information describing the applicant program.

(b) Demonstration by the applicant that it possesses adequate administrative, fiscal, and operational capability to operate a driving-under-the-influence program.

(c) Onsite review of the program by department staff determines that the program is clean, safe, free of alcohol or illicit drug use, and that the program adheres to applicable statutes and regulations.

(d) The program has paid all licensing fees.

SEC. 6. 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 any alcoholic beverage or drug, or under the combined influence of any 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 and other drug education and counseling services 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 and other 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 pursuant to Section 23161 or 23181 of the Vehicle Code, refer a first offender to a licensed program to attend all of the education, group counseling, and interview sessions described in this chapter 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 Section 11837.2, 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 this chapter, if there is no increase in the costs of the program to the convicted person.

SEC. 7. Section 11837.3 is added to the Health and Safety Code, to read:

11837.3. (a) (1) Each county, through the county alcohol program administrator, shall determine its ability to establish, through public or private resources, a program of alcohol and other drug education and counseling services for a person whose license to

drive has been administratively suspended or revoked for, or who is convicted of, a first violation of Section 23152 or 23153 of the Vehicle Code, or who is convicted of a violation of subdivision (b), (c), (d), or (e) of Section 655 of, or Section 655.4 of, the Harbors and Navigation Code, pursuant to subdivisions (c) and (d) of Section 668 of the Harbors and Navigation Code. The program shall be self-supporting through fees collected from program participants. The program shall be of at least three months' duration and totaling at least 30 hours of direct education and counseling services, that shall be authorized by each county and licensed by, and operated under general regulations established by, the department. A county that shows the department that it has insufficient resources, insufficient potential program participants, or other material disadvantages is not required to establish a program.

(2) The department may license an alcohol and other drug education program that is less than 30 hours in length in any county where the board of supervisors has provided the showing pursuant to paragraph (1), and the department has upheld that showing. The shorter program is subject to all other applicable regulations developed by the department pursuant to paragraph (3) of subdivision (b) of Section 11837.4.

(b) Each county that has approved an alcohol and other drug education program or programs and that is licensed by the department shall make provision for persons who can document current inability to pay the program fee, in order to enable those persons to participate. The county shall require that the program report the failure of a person referred to the program to enroll in the program to the referring court.

(c) In order to assure effectiveness of the alcohol and other drug education and counseling program, the county shall provide, as appropriate, services to ethnic minorities, women, youth, or any other group that has particular needs related to the program.

(d) (1) Any person required to successfully complete an alcohol and other drug education and counseling program as a condition of probation shall enroll in the program and, except when enrollment is required in a program that is required to report failures to enroll to the court, shall furnish proof of the enrollment to the court within the period of time and in the manner specified by the court. The person also shall participate in and successfully complete the program, and shall furnish proof of successful completion within the period of time and in the manner specified by the court.

(2) An alcohol and other drug education and counseling program shall report to the court, within the period of time and in the manner specified by the court, the name of any person who fails to successfully complete the program.

SEC. 8. Section 11837.5 of the Health and Safety Code is amended to read:

11837.5. (a) No person may participate in any program that has not been licensed by the department pursuant to this chapter.

(b) The department shall charge reasonable fees for licensing driving-under-the-influence programs. The department shall set the fees in an amount sufficient to cover all administrative costs incurred by the department and to reimburse the Department of Motor Vehicles for the costs of the evaluation and report required by Section 9 of Senate Bill 1344 of the 1989–90 Regular Session.

(c) The department may fine a provider who is delinquent in the payment of licensing fees. The department shall deposit fines collected from delinquent providers in the Driving-Under-the-Influence Program Licensing Trust Fund, and the revenues from the fines shall be used, upon appropriation, to offset costs incurred by the department in the administration of the program and to reimburse the Department of Motor Vehicles for the costs of the evaluation and report required by Section 9 of Senate Bill 1344 of the 1989–90 Regular Session.

(d) If a program fails to pay licensing fees or assessed fines, the department may deny an initial license or revoke an existing license.

(e) There is established in the State Treasury a Driving-Under-the-Influence Program Licensing Trust Fund. All fees, fines, and penalties collected from driving-under-the-influence programs shall be deposited in this fund. The money in the fund shall be available when appropriated by the Legislature.

(f) The department shall prepare a report on the assets, liabilities, and balance in the Driving-Under-the-Influence Program Licensing Trust Fund when the department increases program licensing fees. The report shall also include an itemized statement of income and expenses for the trust fund since the last report. The department shall submit the report to the Legislature and shall furnish a copy of the report, upon request, to any provider of a driving-under-the-influence program.

(g) Licensing fees shall be evaluated annually and based on the department's projected costs for the forthcoming fiscal year. Any excess fees remaining in the Driving-Under-the-Influence Program Licensing Trust Fund at the close of the fiscal year shall be carried forward and taken into consideration in establishment of fees for the subsequent fiscal year. If the department proposes to increase the licensing fees, the department shall justify the increase to the Legislature by showing that sufficient assets are not currently available in the Driving-Under-the-Influence Program Licensing Trust Fund and that current licensing fee collections are not sufficient to support current or planned expenses of the department for driving-under-the-influence program licensing activities.

(h) Licensing fee collection procedures, which include the assessment of fines for delinquent fee payments, shall be defined in regulations adopted pursuant to this chapter.

SEC. 9. Section 13352 of the Vehicle Code is amended to read:

13352. (a) The department shall immediately suspend or revoke, or record the court-administered suspension or revocation of, the privilege of any person to operate a motor vehicle upon

receipt of a duly certified abstract of the record of any court showing that the person has been convicted of a violation of Section 23152 or 23153 or subdivision (a) of Section 23109, or upon receipt of a report of a judge of the juvenile court, a juvenile traffic hearing officer, or a referee of a juvenile court showing that the person has been found to have committed a violation of Section 23152 or 23153 or subdivision (a) of Section 23109. If any offense in this section occurs in a vehicle defined in Section 15210, the suspension or revocation specified below shall apply to the noncommercial driving privilege. The commercial driving privilege shall be disqualified as specified in Section 15300. For purposes of this section, suspension or revocation shall be as follows:

(1) Upon a conviction or finding of a violation of Section 23152 punishable under Section 23160, the privilege shall be suspended for a period of six months if the court orders the department to suspend the privilege, or if the court does not grant probation. If the person gives proof of ability to respond in damages as defined in Section 16430, the department shall issue the restricted license upon receipt of an abstract of record from the court pursuant to Section 1803 certifying that the court has granted probation to the person on conditions which include the condition specified in subdivision (b) of Section 23161. The privilege shall not be reinstated until the person gives proof of ability to respond in damages and gives proof satisfactory to the department of successful completion of a program described in Section 23161.

(2) Upon a conviction or finding of a violation of Section 23153 punishable under Section 23180, the privilege shall be suspended for a period of one year. The privilege shall not be reinstated until the person gives proof of ability to respond in damages and gives proof satisfactory to the department of successful completion of a program described in Section 23161.

(3) Except as provided in Section 13352.5, upon a conviction or finding of a violation of Section 23152 punishable under Section 23165, the privilege shall be suspended for 18 months. The privilege shall not be reinstated until the person gives proof of ability to respond in damages and gives proof satisfactory to the department of successful completion of a program described in Section 23166.

(4) Except as provided in Section 13352.5, upon a conviction or finding of a violation of Section 23153 punishable under Section 23185, the privilege shall be revoked for a period of three years. The privilege shall not be reinstated until evidence satisfactory to the department establishes that no grounds exist which would authorize the refusal to issue a license and until the person gives proof of ability to respond in damages, and until the person gives proof satisfactory to the department of successful completion of a program described in Section 23166.

(5) Upon a conviction or finding of a violation of Section 23152 punishable under Section 23170, the privilege shall be revoked for a period of three years. The privilege shall not be reinstated until the

person files proof of ability to respond in damages and gives proof satisfactory to the department of successful completion, subsequent to the most recent underlying conviction, of one of the following programs: an 18-month program or, if available in the county of the person's residence or employment, a 30-month program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code, or a program specified in Section 8001 of the Penal Code. The court shall advise the person at the time of sentencing that completion of one of the programs authorized by this paragraph is required in order to become eligible for a California driver's license. The court shall also advise the person that after the completion of 24 months of the revocation period, the person may apply to the court for an order granting a restricted driver's license, subject to the following conditions:

(A) The person has satisfactorily completed, subject to the current underlying conviction, either of the following:

(i) A licensed 18-month program pursuant to Section 11836 of the Health and Safety Code.

(ii) The initial 18 months of a licensed 30-month program, if available in the county of the person's residence or employment, pursuant to Section 11836 of the Health and Safety Code.

(B) The person agrees, as a condition of the restriction, to continue satisfactory participation in the 30-month program, if applicable, and to have installed and maintained, as described in Section 23235, an ignition interlock device.

(C) The person provides proof of responsibility to respond in damages.

(D) The person has not applied for and received an order in conjunction with the current underlying conviction or a prior conviction for violation of Section 23103, 23152, or 23153, if the prior conviction was within the previous seven years.

(E) Any individual convicted of a violation of Section 23152 punishable under Section 23170 may also, at any time after sentencing, petition the court for referral to an 18-month program or, if available in the county of the person's residence or employment, a 30-month program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code. Unless good cause is shown, the court shall order the referral.

(6) Upon a conviction or finding of a violation of Section 23153 punishable under Section 23190, the privilege shall be revoked for a period of five years. The privilege shall not be reinstated until evidence satisfactory to the department establishes that no grounds exist which would authorize the refusal to issue a license and until the person gives proof of ability to respond in damages and gives proof satisfactory to the department of successful completion, subsequent to the most recent underlying conviction, of one of the following programs: a 30-month program, if available in the county of the person's residence or employment or, if not available, an

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, or a program specified in Section 8001 of the Penal Code. The court shall advise the person at the time of sentencing that completion of one of the programs authorized by this paragraph is required in order to become eligible for a California driver's license. The court shall also advise the person that after the completion of 24 months of the revocation period, the person may apply to the court for an order granting a restricted driver's license, subject to the following conditions:

(A) (i) The person has satisfactorily completed, subject to the current underlying conviction, the 18-month program or the initial 18 months of a licensed 30-month program, as applicable, pursuant to Section 11836 of the Health and Safety Code.

(ii) The person agrees, as a condition of the restriction, to continue satisfactory participation in the 30-month program, if applicable, and to have installed and maintained, as described in Section 23235, an ignition interlock device.

(iii) The person provides proof of responsibility to respond in damages.

(iv) The person has not applied for and received an order in conjunction with the current underlying conviction or a prior conviction for a violation of Section 23103, 23152, or 23153, if the prior conviction was within the previous seven years.

(B) Any individual convicted of a violation of Section 23153 punishable under Section 23190 may also, at any time after sentencing, petition the court for referral to an 18-month program or, if available in the county of the person's residence or employment, a 30-month program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code. Unless good cause is shown, the court shall order the referral.

(7) Upon a conviction or finding of a violation of Section 23152 punishable under Section 23175, the privilege shall be revoked for a period of four years. The privilege shall not be reinstated until evidence satisfactory to the department establishes that no grounds exist which would authorize the refusal to issue a license and until the person gives proof of ability to respond in damages and gives proof satisfactory to the department of successful completion, subsequent to the most recent underlying conviction, of one of the following programs: an 18-month program or, if available in the county of the person's residence or employment, a 30-month program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code, or a program specified in Section 8001 of the Penal Code. The court shall advise the person at the time of sentencing that completion of one of the programs authorized by this paragraph is required in order to become eligible for a California driver's license. The court shall also advise the person that after the completion of 24 months of the

revocation period, the person may apply to the court for an order granting a restricted driver's license, subject to the following conditions:

(A) The person has satisfactorily completed, subject to the current underlying conviction, the initial 18 months of a licensed 30-month program pursuant to Section 11836 of the Health and Safety Code.

(B) The person agrees, as a condition of the restriction, to continue satisfactory participation in the 30-month program, if applicable, and to have installed and maintained, as described in Section 23235, an ignition interlock device.

(C) The person provides proof of responsibility to respond in damages.

(D) The person has not applied for and received an order in conjunction with the current underlying conviction or a prior conviction for violation of Section 23103, 23152, or 23153, if the prior conviction was within the previous seven years.

(E) Any individual convicted of a violation of Section 23152 punishable under Section 23175 may also, at any time after sentencing, petition the court for referral to an 18-month program or, if available in the county of the person's residence or employment, a 30-month program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code. Unless good cause is shown, the court shall order the referral.

(8) Upon a conviction or finding of a violation of subdivision (a) of Section 23109 punishable under subdivision (e) of that section, the privilege shall be suspended for a period of 90 days to six months, if and as ordered by the court.

(9) Upon a conviction or finding of a violation of subdivision (a) of Section 23109 punishable under subdivision (f) of that section, the privilege shall be suspended for a period of six months, if the court orders the department to suspend the privilege. The privilege shall not be reinstated until the person gives proof of ability to respond in damages.

(b) For the purpose of paragraphs (2) to (9), inclusive, of subdivision (a), the finding of the juvenile court judge, the juvenile traffic hearing officer, or the referee of a juvenile court of a commission of a violation of Section 23152 or 23153 or subdivision (a) of Section 23109, as specified in subdivision (a) of this section, is a conviction.

(c) Each judge of a juvenile court, juvenile traffic hearing officer, or referee of a juvenile court shall immediately report the findings specified in subdivision (a) to the department.

(d) A conviction of an offense in any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or Canada which, if committed in this state, would be a violation of Section 23152, is a conviction of Section 23152 for purposes of this section, and a conviction of an offense which, if

committed in this state, would be a violation of Section 23153, is a conviction of Section 23153 for purposes of this section. The department shall suspend or revoke the privilege to operate a motor vehicle pursuant to this section upon receiving notice of that conviction.

(e) Whenever the driving privilege is restricted, suspended, or revoked pursuant to this section, the department shall not issue a restricted driver's license or reinstate the driving privilege unless the person gives proof of ability to respond in damages and maintains that proof for three years. If, at any time during that three-year period, a person who is required to maintain that proof fails to maintain that proof, the department shall suspend that person's driving privilege until the proof of ability to respond in damages is again given to the department.

SEC. 10. Section 13352.5 of the Vehicle Code is amended to read:

13352.5. (a) Unless ordered to do so by the court upon a finding that the terms and conditions of probation were violated, the department shall not suspend, pursuant to paragraph (3) of subdivision (a) of Section 13352, but shall restrict, the privilege of any person to operate a motor vehicle upon a conviction or finding that the person violated Section 23152. This requirement shall apply only if the court has certified to the department that the court has granted probation to the person under conditions that include those specified in subdivision (b) of Section 23166, the court has restricted the privilege to operate a motor vehicle as provided in that subdivision, and the person gives proof of financial responsibility, as defined in Section 16430.

(b) Unless ordered to do so by the court upon a finding that the terms and conditions of probation were violated, the department shall not revoke, pursuant to paragraph (4) of subdivision (a) of Section 13352, but shall suspend for one year and, thereafter, restrict for two additional years, the privilege of any person to operate a motor vehicle upon a conviction or finding that the person violated Section 23153. This requirement shall apply only if the court has certified to the department that the court has granted probation to the person under conditions that include those specified in subdivision (b) of Section 23186, the court has ordered the department to suspend the privilege to operate a motor vehicle as provided in that subdivision, and the person gives proof of financial responsibility.

(c) Subdivisions (a) and (b) do not apply to a person who has been referred or rereferred into a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code within four years after the person ceases his or her prior participation in a program. The four-year period shall commence either on the date the person successfully completes the program or on the date on which the person's driving privilege was suspended or revoked by the department for failure to comply with the program's rules and regulations, whichever is later.

The eligibility of a person convicted of a violation of Section 23152 or 23153 subsequent to the commencement of a four-year period, to participate in the program again for purposes of this section, shall be determined on the basis of the date on which the person is alleged to have committed that offense.

(d) The restriction of the driving privilege under subdivision (a) shall become effective 30 days from the date on which the person consented to participate in the program specified in subdivision (a), excluding any time of imprisonment ordered by the court. This requirement applies only if the person presents evidence satisfactory to the department that he or she is participating in the program specified in subdivision (b) of Section 23166, gives proof of financial responsibility, and pays fees to the department of fifteen dollars ($15) upon application for the restricted license and twenty dollars ($20) upon completion of the treatment program or upon application for an unrestricted license, whichever is sooner. If the person fails to apply for a restricted license, fails to give proof of financial responsibility, or if the person fails to show evidence of participation within 30 days, excluding the time of imprisonment ordered by the court, the department shall suspend the driving privilege of the person for the time prescribed in paragraph (3) of subdivision (a) of Section 13352.

(e) The restriction of the driving privilege under subdivision (b) shall become effective 30 days from the end of the period of suspension if the person presents evidence satisfactory to the department that he or she is participating in the program specified in subdivision (b) of Section 23186, gives proof of financial responsibility, and pays fees to the department of fifteen dollars ($15) upon application for the restricted license and twenty dollars ($20) upon completion of the treatment program or upon application for an unrestricted license, whichever is sooner. If the person fails to apply for a restricted license, fails to give proof of financial responsibility, or if the person fails to show evidence of participation within 30 days from the end of the period of suspension, excluding any time of imprisonment ordered by the court to be served after the end of the period of suspension, the department shall revoke the driving privilege of the person for the time prescribed in paragraph (4) of subdivision (a) of Section 13352.

(f) The driving privilege restricted under subdivision (a) or (b) shall be limited to the hours for driving to and from the place of employment and during the course of employment, and driving to and from activities required in an alcohol treatment program specified in subdivision (b) of Section 23166 or subdivision (b) of Section 23186. The department may set forth the times and days of restricted operation established by the court either on a special restricted license or upon the usual license form. Whenever the driving privilege is restricted under subdivision (a) or (b), proof of financial responsibility shall be maintained for three years. If the person maintains proof of financial responsibility, the restriction shall

continue in full force and effect until the person presents evidence satisfactory to the department that the person has completed the alcohol treatment program. The length of the restriction for a person subject to subdivision (a) shall not be less than the total time of restriction specified in subdivision (b) of Section 23166. The total time of suspension and restriction for a person subject to subdivision (b) shall not be less than the applicable period of revocation under paragraph (4) of subdivision (a) of Section 13352.

(g) Except as provided in this subdivision, the department shall suspend or revoke the driving privilege for the time prescribed in paragraph (3) or (4) of subdivision (a) of Section 13352, 60 days from the date that the department notifies the person and the court of the intended action pursuant to subdivision (a) of Section 11837.1 of the Health and Safety Code, or from the date ending the additional time ordered by the court under this subdivision, whichever is later. If the person presents evidence satisfactory to the department that the court of jurisdiction has consented to the person's reinstatement in the program and the person gives proof of financial responsibility, the department shall continue in effect the restriction granted under subdivision (c). However, if the person previously has been reinstated in the program on one or more occasions, the department shall suspend or revoke the driving privilege for the time prescribed in paragraph (3) or (4) of subdivision (a) of Section 13352. The evidence shall be presented within 45 days of the notice from the department of the intended action or the additional time, not to exceed an additional 45 days, for the determination, as is required, ordered, and transmitted to the department by the court, which additional time is not caused by any action or failure to act by the person.

(h) All abstracts of record showing a conviction that are forwarded to the department pursuant to Section 1803 shall state whether the court has granted probation to the person under conditions that include those specified in subdivision (b) of Section 23166 or subdivision (b) of Section 23186, and that state the date on which the person consented to participate in the program.

(i) The department, in cooperation with the State Department of Alcohol and Drug Programs, shall adopt regulations as it deems necessary to implement this section.

(j) This section does not apply to persons whose offense occurred in a vehicle requiring a driver with a class 1, class 2, class A, or class B driver's license, or with an endorsement specified in Section 15278.

SEC. 11. Section 13353 of the Vehicle Code is amended to read:

13353. (a) If any person refuses the officer's request to submit to, or fails to complete, a chemical test or tests pursuant to Section 23157, upon receipt of the officer's sworn statement that the officer had reasonable cause to believe the person had been driving a motor vehicle in violation of Section 23140, 23152, or 23153, and that the person had refused to submit to, or did not complete, the test or tests after being requested by the officer, the department shall do one of

the following:

(1) Suspend the person's privilege to operate a motor vehicle for a period of one year.

(2) Revoke the person's privilege to operate a motor vehicle for a period of two years if the refusal occurred within seven years of either (A) a separate violation of Section 23103 as specified in Section 23103.5, or of Section 23140, 23152, or 23153, or of Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, which resulted in a conviction, or (B) a suspension or revocation of the person's privilege to operate a motor vehicle pursuant to this section or Section 13353.2 for an offense which occurred on a separate occasion.

(3) Revoke the person's privilege to operate a motor vehicle for a period of three years if the refusal occurred within seven years of any of the following:

(A) Two or more separate violations of Section 23103 as specified in Section 23103.5, or of Section 23140, 23152, or 23153, or of Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, or any combination thereof, which resulted in convictions.

(B) Two or more suspensions or revocations of the person's privilege to operate a motor vehicle pursuant to this section or Section 13353.2 for offenses which occurred on separate occasions.

(C) Any combination of two or more of those convictions or administrative suspensions or revocations.

The officer's sworn statement shall be submitted pursuant to Section 23158.2 on a form furnished or approved by the department. The suspension or revocation shall not become effective until 30 days after the giving of written notice thereof, or until the end of any stay of the suspension or revocation, as provided for in Section 13558.

(b) The notice of the order of suspension or revocation under this section shall be served on the person by a peace officer pursuant to Section 23157. The notice of the order of suspension or revocation shall be on a form provided by the department. If the notice of the order of suspension or revocation has not been served by the peace officer pursuant to Section 23157, the department immediately shall notify the person in writing of the action taken. The peace officer who serves the notice, or the department, if applicable, also shall provide, if the officer or department, as the case may be, determines that it is necessary to do so, the person with the appropriate non-English notice developed pursuant to subdivision (d) of Section 14100.

(c) Upon receipt of the officer's sworn statement, the department shall review the record. For purposes of this section, the scope of the administrative review shall cover all of the following issues:

(1) Whether the peace officer had reasonable cause to believe the person had been driving a motor vehicle in violation of Section 23140, 23152, or 23153.

(2) Whether the person was placed under arrest.

(3) Whether the person refused to submit to, or did not complete,

the test or tests after being requested by a peace officer.

(4) Whether, except for the persons described in subdivision (a) of Section 23157 who are incapable of refusing, the person had been told that his or her driving privilege would be suspended or revoked if he or she refused to submit to, or did not complete, the test or tests.

(d) The person may request an administrative hearing pursuant to Section 13558. Except as provided in subdivision (e) of Section 13558, the request for an administrative hearing does not stay the order of suspension or revocation.

SEC. 12. Section 13353.2 of the Vehicle Code is amended to read:

13353.2. (a) The department shall immediately suspend the privilege of any person to operate a motor vehicle if the person was driving a motor vehicle when the person had 0.08 percent or more, by weight, of alcohol in his or her blood.

(b) The notice of the order of suspension under this section shall be served on the person by a peace officer pursuant to Section 23158.5. The notice of the order of suspension shall be on a form provided by the department. If the notice of the order of suspension has not been served upon the person by the peace officer pursuant to Section 23158.5, upon the receipt of the report of a peace officer submitted pursuant to Section 23158.2, the department shall mail written notice of the order of the suspension to the person at the last known address shown on the department's records and, if the address of the person provided by the peace officer's report differs from the address of record, to that address.

(c) The notice of the order of suspension shall clearly specify the reason and statutory grounds for the suspension, the effective date of the suspension, the right of the person to request an administrative hearing, the procedure for requesting an administrative hearing, and the date by which a request for an administrative hearing shall be made in order to receive a determination prior to the effective date of the suspension.

(d) The department shall make a determination of the facts in subdivision (a) on the basis of the report of a peace officer submitted pursuant to Section 23158.2. The determination of the facts, after administrative review pursuant to Section 13557, by the department is final, unless an administrative hearing is held pursuant to Section 13558 and any judicial review of the administrative determination after the hearing pursuant to Section 13559 is final.

(e) The determination of the facts in subdivision (a) is a civil matter which is independent of the determination of the person's guilt or innocence, shall have no collateral estoppel effect on a subsequent criminal prosecution, and shall not preclude the litigation of the same or similar facts in the criminal proceeding. If a person is acquitted of criminal charges relating to a determination of facts under subdivision (a), the department shall immediately reinstate the person's privilege to operate a motor vehicle if the department has suspended it administratively pursuant to subdivision (a), and the department shall return or reissue for the

remaining term any driver's license which has been taken from the person pursuant to Section 23158.5 or otherwise. Notwithstanding subdivision (b) of Section 13558, if criminal charges under Section 23140, 23152, or 23153 are not filed by the district attorney because of a lack of evidence, or if those charges are filed but are subsequently dismissed by the court because of an insufficiency of evidence, the person has a renewed right to request an administrative hearing before the department. The request for a hearing shall be made within one year from the date of arrest.

(f) The department shall furnish a form that requires a detailed explanation specifying which evidence was defective or lacking and detailing why that evidence was defective or lacking. The form shall be made available to the person to provide to the district attorney. The department shall hold an administrative hearing, and the hearing officer shall consider the reasons for the failure to prosecute given by the district attorney on the form provided by the department. If applicable, the hearing officer shall consider the reasons stated on the record by a judge who dismisses the charges. No fee shall be imposed pursuant to Section 14905 for the return or reissuing of a driver's license pursuant to this subdivision. The disposition of a suspension action under this section does not affect any action to suspend or revoke the person's privilege to operate a motor vehicle under any other provision of this code, including, but not limited to, Section 13352 or 13353, or Chapter 3 (commencing with Section 13800).

SEC. 12.1. Section 13353.2 of the Vehicle Code is amended to read:

13353.2. (a) The department shall immediately suspend the privilege of any person to operate a motor vehicle if the person was driving a motor vehicle when the person was 21 years of age or older and had 0.08 percent or more, by weight, of alcohol in his or her blood, or when the person was under 21 years of age and had a blood-alcohol concentration of 0.01 percent or greater, as measured by a preliminary alcohol screening test.

(b) The notice of the order of suspension under this section shall be served on the person by a peace officer pursuant to Section 23137 or 23158.5. The notice of the order of suspension shall be on a form provided by the department. If the notice of the order of suspension has not been served upon the person by the peace officer pursuant to Section 23137 or 23158.5, upon the receipt of the report of a peace officer submitted pursuant to Section 23158.2, the department shall mail written notice of the order of the suspension to the person at the last known address shown on the department's records and, if the address of the person provided by the peace officer's report differs from the address of record, to that address.

(c) The notice of the order of suspension shall clearly specify the reason and statutory grounds for the suspension, the effective date of the suspension, the right of the person to request an administrative hearing, the procedure for requesting an administrative hearing, and

the date by which a request for an administrative hearing shall be made in order to receive a determination prior to the effective date of the suspension.

(d) The department shall make a determination of the facts in subdivision (a) on the basis of the report of a peace officer submitted pursuant to Section 23158.2. The determination of the facts, after administrative review pursuant to Section 13557, by the department is final, unless an administrative hearing is held pursuant to Section 13558 and any judicial review of the administrative determination after the hearing pursuant to Section 13559 is final.

(e) The determination of the facts in subdivision (a) is a civil matter which is independent of the determination of the person's guilt or innocence, shall have no collateral estoppel effect on a subsequent criminal prosecution, and shall not preclude the litigation of the same or similar facts in the criminal proceeding. If a person is acquitted of criminal charges relating to a determination of facts under subdivision (a), or if the person's driver's license was suspended pursuant to Section 23137 and the department finds no basis for a suspension pursuant to that section, the department shall immediately reinstate the person's privilege to operate a motor vehicle if the department has suspended it administratively pursuant to subdivision (a), and the department shall return or reissue for the remaining term any driver's license which has been taken from the person pursuant to Section 23158.5 or otherwise. Notwithstanding subdivision (b) of Section 13558, if criminal charges under Section 23152 or 23153 are not filed by the district attorney because of a lack of evidence, or if those charges are filed but are subsequently dismissed by the court because of an insufficiency of evidence, the person has a renewed right to request an administrative hearing before the department. The request for a hearing shall be made within one year from the date of arrest.

(f) The department shall furnish a form that requires a detailed explanation specifying which evidence was defective or lacking and detailing why that evidence was defective or lacking. The form shall be made available to the person to provide to the district attorney. The department shall hold an administrative hearing, and the hearing officer shall consider the reasons for the failure to prosecute given by the district attorney on the form provided by the department. If applicable, the hearing officer shall consider the reasons stated on the record by a judge who dismisses the charges. No fee shall be imposed pursuant to Section 14905 for the return or reissuing of a driver's license pursuant to this subdivision. The disposition of a suspension action under this section does not affect any action to suspend or revoke the person's privilege to operate a motor vehicle under any other provision of this code, including, but not limited to, Section 13352 or 13353, or Chapter 3 (commencing with Section 13800).

SEC. 13. Section 13353.4 of the Vehicle Code, as added by Section 4 of Chapter 1181 of the Statutes of 1992, 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 licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code. The program shall be of an appropriate length and scope, as determined by the number of prior convictions on that person's record for a violation of Section 23103, as specified in Section 23103.5, or of Section 23140, 23152, or 23153. The department shall restore the privilege to operate a motor vehicle after a suspension or revocation pursuant to Section 13352 upon receipt of a certification, under penalty of perjury, by the director of a program specified in Section 8001 of the Penal Code that the person has completed the program specified in Section 8001 of the Penal Code.

(d) (1) If a person's privilege to operate a motor vehicle is suspended or revoked pursuant to an arrest resulting in a suspension or revocation pursuant to Section 13353 or 13353.2, the person voluntarily may enter a driving-under-the-influence program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code. The program shall be of an appropriate length and scope, as determined by the number of prior convictions on that person's record for a violation of Section 23103, as specified in Section 23103.5, or of Section 23152 or 23153.

(2) If the person is subsequently convicted of a violation of Section 23140, 23152, or 23153 resulting from the arrest specified in this subdivision, the hours spent in the program entered into pursuant to this subdivision shall be credited to the person for purposes of Article 2 (commencing with Section 23152) of Chapter 12 of Division 11, and the person shall complete the program before his or her driving privilege may be restored by the department.

(3) If the person is not subsequently prosecuted or convicted of a violation of Section 23140, 23152, or 23153 resulting from the arrest specified in this subdivision, the person is not required to complete the program and, after receiving satisfactory evidence of the lack of prosecution or conviction, the department shall restore his or her driving privilege if all of the following conditions are met:

(A) The period of suspension and restriction or revocation

prescribed in Section 13353, 13353.2, 13353.6, or 13353.7 has elapsed.

(B) No other actions exist that would prohibit restoration of the driving privilege.

(C) All applicable reinstatement fees have been paid.

(D) The person gives proof of financial responsibility.

(4) If a prosecution is pending for a violation of Section 23140, 23152, or 23153 resulting from the arrest specified in this subdivision, and the suspension, restrictions, or revocation period imposed pursuant to Section 13353, 13353.2, 13353.6, or 13353.7 has expired, the department shall restore the person's driving privilege.

(e) For purposes of this section, completion of a program is the satisfactory completion of all program requirements approved pursuant to program licensure, and any other court-imposed conditions, as evidenced by a certificate of completion issued by the licensed program.

(f) This section shall become operative July 1, 1993.

SEC. 14. Section 13353.7 of the Vehicle Code is amended to read:

13353.7. (a) Subject to subdivision (c) and except as provided in Section 13353.6 for persons who have commercial driver's licenses, if the person whose driving privilege has been suspended under Section 13353.2 has not been convicted of, or found to have committed, a separate violation of Section 23103, as specified in Section 23103.5, Section 23140, 23152, or 23153 of this code, or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, and if the person's privilege to operate a motor vehicle has not been suspended or revoked pursuant to Section 13353 or 13353.2 for an offense which occurred on a separate occasion within seven years of the occasion in question and, if the person subsequently enrolls in a program described in Section 11837.3 of the Health and Safety Code, pursuant to subdivision (b) of Section 23161, that person may apply to the department for a restricted driver's license limited to travel to and from the activities required by the program. After receiving proof of enrollment in the program, and if the person has not been arrested subsequent to the offense for which the person's driving privilege has been suspended under Section 13353.2 for a violation of Section 23103, as specified in Section 23103.5, Section 23140, 23152, or 23153 of this code, or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, and if the person's privilege to operate a motor vehicle has not been suspended or revoked pursuant to Section 13353 or 13353.2 for an offense which occurred on a separate occasion, notwithstanding Section 13551, the department shall, after review pursuant to Section 13557, suspend the person's privilege to operate a motor vehicle for 30 days and then issue the person a restricted driver's license under the following conditions:

(1) The program shall report any failure to participate in the program to the department and shall certify successful completion of the program to the department.

(2) The person gives proof of financial responsibility as defined in

Section 16430.

(3) The restricted driver's license authorizes the operation of a motor vehicle only to and from the activities required under the program.

(4) If any person who has been issued a restricted license under this section fails at any time to participate in the program, the department shall suspend the restricted license immediately. The department shall give notice of the suspension under this paragraph in the same manner as prescribed in subdivision (b) of Section 13353.2 for the period specified in Section 13353.3, which is effective upon receipt by the person.

(5) On or after 60 days after the effective date of the restricted license, and upon notification of successful completion of the program, the department may issue an unrestricted driver's license to the person.

(b) If the court of jurisdiction in a criminal action arising out of the same offense orders the department to suspend or revoke the person's privilege to operate a motor vehicle or does not grant probation after conviction of that offense, notwithstanding subdivision (a), the department shall suspend or revoke the person's privilege pursuant to the order of the court or Section 13352.

(c) If the holder of a commercial driver's license was operating a commercial vehicle, as defined in Section 15210, at the time of the violation which resulted in the suspension of that person's driving privilege under Section 13353.2, the department shall, pursuant to this section, if the person is otherwise eligible, issue the person a class C driver's license restricted in the same manner and subject to the same conditions as specified in subdivision (a).

(d) This section does not apply to a person whose driving privilege has been suspended or revoked pursuant to the order of the court or Section 13353 or 13353.2 for an offense which occurred on a separate occasion, or as a result of a conviction of a separate violation of Section 23103, as specified in Section 23103.5, or Section 23140, 23152, or 23153, which violation occurred within seven years of the offense in question. This subdivision shall be operative only so long as a one-year suspension of the driving privilege for a second or subsequent occurrence or offense, with no restricted or hardship licenses permitted, is required by Section 408 or 410 of Title 23 of the United States Code.

SEC. 15. Section 13557 of the Vehicle Code is amended to read:

13557. (a) The department shall review the determination made pursuant to Section 13353 or 13353.2 relating to any person who has received a notice of an order of suspension or revocation of the person's privilege to operate a motor vehicle pursuant to Section 13353, 13353.2, 23157, or 23158.5. The department shall consider the sworn report submitted by the peace officer pursuant to Section 23157 or 23158.2 and any other evidence accompanying the report.

(b) (1) If the department determines in the review of a determination made under Section 13353, by a preponderance of the

evidence, all of the following facts, the department shall sustain the order of suspension or revocation:

(A) That the peace officer had reasonable cause to believe that the person had been driving a motor vehicle in violation of Section 23140, 23152, or 23153.

(B) That the person was placed under arrest.

(C) That the person refused or failed to complete the chemical test or tests after being requested by a peace officer.

(D) That, except for the persons described in Section 23157 who are incapable of refusing, the person had been told that his or her privilege to operate a motor vehicle would be suspended or revoked if he or she refused to submit to, and complete, the required testing.

If the department determines, by a preponderance of the evidence, that any of those facts were not proven, the department shall rescind the order of suspension or revocation and, provided the person is otherwise eligible, return or reissue the person's driver's license pursuant to Section 13551. The determination of the department upon administrative review is final unless a hearing is requested pursuant to Section 13558.

(2) If the department determines in the review of a determination made under Section 13353.2, by the preponderance of the evidence, all of the following facts, the department shall sustain the order of suspension or revocation:

(A) That the peace officer had reasonable cause to believe that the person had been driving a motor vehicle in violation of Section 23140, 23152, or 23153.

(B) That the person was placed under arrest.

(C) That the person was driving a motor vehicle when the person had 0.08 percent or more, by weight, of alcohol in his or her blood or that the person was driving a motor vehicle when the person was under the age of 18 years and had 0.05 percent or more, by weight, of alcohol in his or her blood.

If the department determines that any of those facts were not proven by the preponderance of the evidence, the department shall rescind the order of suspension or revocation and, provided that the person is otherwise eligible, return or reissue the person's driver's license pursuant to Section 13551. The determination of the department upon administrative review is final unless a hearing is requested pursuant to Section 13558.

(c) The department shall make the determination upon administrative review before the effective date of the order of suspension or revocation.

(d) The administrative review does not stay the suspension or revocation of a person's privilege to operate a motor vehicle. If the department is unable to make a determination on administrative review within the time limit in subdivision (c), the department shall stay the effective date of the order of suspension or revocation pending the determination and, if the person's driver's license has been taken by the peace officer pursuant to Section 23157 or 23158.5,

the department shall notify the person before the expiration date of the temporary permit issued pursuant to Section 23157 or 23158.5, or the expiration date of any previous extension issued pursuant to this subdivision, in a form that permits the person to establish to any peace officer that his or her privilege to operate a motor vehicle is not suspended or revoked.

(e) A person may request and be granted a hearing pursuant to Section 13558 without first receiving the results of an administrative review pursuant to this section. After receiving a request for a hearing, the department is not required to conduct an administrative review of the same matter pursuant to this section.

(f) A determination of facts by the department under this section has no collateral estoppel effect on a subsequent criminal prosecution and does not preclude litigation of those same facts in the criminal proceeding.

SEC. 15.5. Section 13557 of the Vehicle Code is amended to read:

13557. (a) The department shall review the determination made pursuant to Section 13353, 13353.1, or 13353.2 relating to any person who has received a notice of an order of suspension or revocation of the person's privilege to operate a motor vehicle pursuant to Section 13353, 13353.1, 13353.2, 23157, or 23158.5. The department shall consider the sworn report submitted by the peace officer pursuant to Section 23157 or 23158.2 and any other evidence accompanying the report.

(b) (1) If the department determines in the review of a determination made under Section 13353 or 13353.1, by a preponderance of the evidence, all of the following facts, the department shall sustain the order of suspension or revocation:

(A) That the peace officer had reasonable cause to believe that the person had been driving a motor vehicle in violation of Section 23137, 23140, 23152, or 23153.

(B) That the person was placed under arrest or, if the alleged violation was of Section 23136, that the person was lawfully detained.

(C) That the person refused or failed to complete the chemical test or tests after being requested by a peace officer.

(D) That, except for the persons described in Section 23157 who are incapable of refusing, the person had been told that his or her privilege to operate a motor vehicle would be suspended or revoked if he or she refused to submit to, and complete, the required testing.

If the department determines, by a preponderance of the evidence, that any of those facts were not proven, the department shall rescind the order of suspension or revocation and, provided the person is otherwise eligible, return or reissue the person's driver's license pursuant to Section 13551. The determination of the department upon administrative review is final unless a hearing is requested pursuant to Section 13558.

(2) If the department determines in the review of a determination made under Section 13353.2, by the preponderance of the evidence, all of the following facts, the department shall sustain

the order of suspension or revocation, or if the person is under 21 years of age and does not yet have a driver's license, the department shall delay issuance of that license for one year:

(A) That the peace officer had reasonable cause to believe that the person had been driving a motor vehicle in violation of Section 23136, 23140, 23152, or 23153.

(B) That the person was placed under arrest or, if the alleged violation was of Section 23136, that the person was lawfully detained.

(C) That the person was driving a motor vehicle when the person was 21 years of age or over and had 0.08 percent or more, by weight, of alcohol in his or her blood, that the person was driving a motor vehicle when the person was under the age of 18 years and had 0.05 percent or more, by weight, of alcohol in his or her blood, or that the person was under 21 years of age and had a blood-alcohol concentration of 0.01 percent or greater, as measured by a preliminary alcohol screening test.

If the department determines that any of those facts were not proven by the preponderance of the evidence, the department shall rescind the order of suspension or revocation and, provided that the person is otherwise eligible, return or reissue the person's driver's license pursuant to Section 13551. For persons under 21 years of age, the determination of the department pursuant to this paragraph is final unless a hearing is requested within 10 days of the determination, which hearing shall be conducted according to the provisions of Section 13558. For persons over 21 years of age, the determination of the department upon administrative review is final unless a hearing is requested pursuant to Section 13558.

(c) The department shall make the determination upon administrative review before the effective date of the order of suspension or revocation.

(d) The administrative review does not stay the suspension or revocation of a person's privilege to operate a motor vehicle. If the department is unable to make a determination on administrative review within the time limit in subdivision (c), the department shall stay the effective date of the order of suspension or revocation pending the determination and, if the person's driver's license has been taken by the peace officer pursuant to Section 23137, 23157, or 23158.5, the department shall notify the person before the expiration date of the temporary permit issued pursuant to Section 23137, 23157, or 23158.5, or the expiration date of any previous extension issued pursuant to this subdivision, in a form that permits the person to establish to any peace officer that his or her privilege to operate a motor vehicle is not suspended or revoked.

(e) A person may request and be granted a hearing pursuant to Section 13558 without first receiving the results of an administrative review pursuant to this section. After receiving a request for a hearing, the department is not required to conduct an administrative review of the same matter pursuant to this section.

(f) A determination of facts by the department under this section

has no collateral estoppel effect on a subsequent criminal prosecution and does not preclude litigation of those same facts in the criminal proceeding.

SEC. 16. Section 23157 of the Vehicle Code is amended to read:

23157. (a) (1) Any person who drives a motor vehicle is deemed to have given his or her consent to chemical testing of his or her blood, breath, or urine for the purpose of determining the alcoholic content of his or her blood, and to have given his or her consent to chemical testing of his or her blood or urine for the purpose of determining the drug content of his or her blood, if lawfully arrested for any offense allegedly committed in violation of Section 23140, 23152, or 23153. The testing shall be incidental to a lawful arrest and administered at the direction of a peace officer having reasonable cause to believe the person was driving a motor vehicle in violation of Section 23140, 23152, or 23153. The person shall be told that his or her failure to submit to, or the failure to complete, the required chemical testing will result in a fine, mandatory imprisonment if the person is convicted of a violation of Section 23152 or 23153, and (A) the suspension of the person's privilege to operate a motor vehicle for a period of one year, (B) the revocation of the person's privilege to operate a motor vehicle for a period of two years if the refusal occurs within seven years of a separate violation of Section 23103 as specified in Section 23103.5, or of Section 23152 or 23153, or of Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code which resulted in a conviction, or if the person's privilege to operate a motor vehicle has been suspended or revoked pursuant to Section 13353 or 13353.2 for an offense which occurred on a separate occasion, or (C) the revocation of the person's privilege to operate a motor vehicle for a period of three years if the refusal occurs within seven years of two or more separate violations of Section 23103 as specified in Section 23103.5, or of Section 23152 or 23153, or of Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, or any combination thereof, which resulted in convictions, or if the person's privilege to operate a motor vehicle has been suspended or revoked two or more times pursuant to Section 13353 or 13353.2 for offenses which occurred on separate occasions, or if there is any combination of those convictions or administrative suspensions or revocations.

(2) (A) If the person is lawfully arrested for driving under the influence of an alcoholic beverage, the person has the choice of whether the test shall be of his or her blood, breath, or urine, and the officer shall advise the person that he or she has that choice. If the person arrested either is incapable, or states that he or she is incapable, of completing any chosen test, the person shall submit to the person's choice of the remaining tests or test, and the officer shall advise the person that the person has that choice.

(B) If the person is lawfully arrested for driving under the influence of any drug or the combined influence of an alcoholic beverage and any drug, the person has the choice of whether the test

shall be of his or her blood, breath, or urine, and the officer shall advise the person that he or she has that choice.

(C) A person who chooses to submit to a breath test may also be requested to submit to a blood or urine test if the officer has reasonable cause to believe that the person was driving under the influence of any drug or the combined influence of an alcoholic beverage and any drug and if the officer has a clear indication that a blood or urine test will reveal evidence of the person being under the influence. The officer shall state in his or her report the facts upon which that belief and that clear indication are based. The person has the choice of submitting to and completing a blood or urine test, and the officer shall advise the person that he or she is required to submit to an additional test and that he or she may choose a test of either blood or urine. If the person arrested either is incapable, or states that he or she is incapable, of completing either chosen test, the person shall submit to and complete the other remaining test.

(3) If the person is lawfully arrested for an offense allegedly committed in violation of Section 23140, 23152, or 23153, and, because of the need for medical treatment, the person is first transported to a medical facility where it is not feasible to administer a particular test of, or to obtain a particular sample of, the person's blood, breath, or urine, the person has the choice of those tests which are available at the facility to which that person has been transported. In that case, the officer shall advise the person of those tests which are available at the medical facility and that the person's choice is limited to those tests which are available.

(4) The officer shall also advise the person that he or she does not have the right to have an attorney present before stating whether he or she will submit to a test or tests, before deciding which test or tests to take, or during administration of the test or tests chosen, and that, in the event of refusal to submit to a test or tests, the refusal may be used against him or her in a court of law.

(5) Any person who is unconscious or otherwise in a condition rendering him or her incapable of refusal is deemed not to have withdrawn his or her consent and a test or tests may be administered whether or not the person is told that his or her failure to submit to, or the noncompletion of, the test or tests will result in the suspension or revocation of his or her privilege to operate a motor vehicle. Any person who is dead is deemed not to have withdrawn his or her consent and a test or tests may be administered at the direction of a peace officer.

(b) Any person who is afflicted with hemophilia is exempt from the blood test required by this section.

(c) Any person who is afflicted with a heart condition and is using an anticoagulant under the direction of a licensed physician and surgeon is exempt from the blood test required by this section.

(d) A person lawfully arrested for any offense allegedly committed while the person was driving a motor vehicle in violation

of Section 23140, 23152, or 23153 may request the arresting officer to have a chemical test made of the arrested person's blood, breath, or urine for the purpose of determining the alcoholic content of that person's blood, and, if so requested, the arresting officer shall have the test performed.

(e) If the person, who has been arrested for a violation of Section 23140, 23152, or 23153, refuses or fails to complete a chemical test or tests, or requests that a blood or urine test be taken, the peace officer, acting on behalf of the department, shall serve the notice of the order of suspension or revocation of the person's privilege to operate a motor vehicle personally on the arrested person. The notice shall be on a form provided by the department.

(f) If the peace officer serves the notice of the order of suspension or revocation of the person's privilege to operate a motor vehicle, the peace officer shall take possession of any driver's license issued by this state which is held by the person. The temporary driver's license shall be an endorsement on the notice of the order of suspension and shall be valid for 30 days from the date of arrest.

(g) The peace officer shall immediately forward a copy of the completed notice of suspension or revocation form and any driver's license taken into possession under subdivision (f), with the report required by Section 23158.2, to the department. If the person submitted to a blood or urine test, the peace officer shall forward the results immediately to the appropriate forensic laboratory. The forensic laboratory shall forward the results of the chemical tests to the department within 15 calendar days of the date of the arrest.

(h) A preliminary alcohol screening test that indicates the presence or concentration of alcohol based on a breath sample in order to establish reasonable cause to believe the person was driving a vehicle in violation of Section 23140, 23152, or 23153 may be used only after the officer evaluates the totality of the circumstances, including the person's performance on the field sobriety tests and under both of the following conditions:

(1) If a person refuses to take field sobriety tests or is incapable of taking the tests, the preliminary alcohol screening test may be used as a further investigative tool, unless the person refuses to take the preliminary alcohol screening test.

(2) If the officer decides to use a preliminary alcohol screening test, the officer shall advise the person that he or she is requesting that person to take a preliminary alcohol screening test to assist the officer in determining if that person is under the influence of alcohol. The person's obligation to submit to a blood, breath, or urine test, as required by this section, for the purpose of determining the alcohol or drug content of that person's blood, is not satisfied by the person submitting to a preliminary alcohol screening test. The officer shall advise the person of that fact and of the person's right to refuse to take the preliminary alcohol screening test.

(i) This section shall become operative on July 1, 1993.

SEC. 17. Section 23158.2 of the Vehicle Code is amended to read:

23158.2. (a) If a peace officer arrests any person for a violation of Section 23140, 23152, or 23153, the peace officer shall immediately forward to the department a sworn report of all information relevant to the enforcement action, including information which adequately identifies the arrested person, a statement of the officer's grounds for belief that the person violated Section 23140, 23152, or 23153, a report of the results of any chemical tests which were conducted on the person or the circumstances constituting a refusal to submit to or complete the chemical testing pursuant to Section 23157, a copy of any notice to appear under which the person was released from custody, and, if immediately available, a copy of the complaint filed with the court. For purposes of this section and subdivision (g) of Section 23157, "immediately" means on or before the end of the fifth ordinary business day following the arrest.

(b) The peace officer's sworn report shall be made on forms furnished or approved by the department.

SEC. 17.5. Section 23158.2 of the Vehicle Code is amended to read:

23158.2. (a) If a peace officer serves a notice of an order of suspension pursuant to Section 23137, or arrests any person for a violation of Section 23140, 23152, or 23153, the peace officer shall immediately forward to the department a sworn report of all information relevant to the enforcement action, including information which adequately identifies the person, a statement of the officer's grounds for belief that the person violated Section 23136, 23140, 23152, or 23153, a report of the results of any chemical tests which were conducted on the person or the circumstances constituting a refusal to submit to or complete the chemical testing pursuant to Section 23137 or 23157, a copy of any notice to appear under which the person was released from custody, and, if immediately available, a copy of the complaint filed with the court. For purposes of this section, subdivision (b) of Section 23137, and subdivision (g) of Section 23157, "immediately" means on or before the end of the fifth ordinary business day following the arrest.

(b) The peace officer's sworn report shall be made on forms furnished or approved by the department.

SEC. 18. Section 23158.5 of the Vehicle Code is amended to read:

23158.5. (a) If the chemical test results for a person who has been arrested for a violation of Section 23152 or 23153, show that the person has 0.08 percent or more, by weight, of alcohol in the person's blood, or if the person has been arrested for a violation of Section 23140, the chemical test results show that the person has 0.05 percent or more, by weight, of alcohol in the person's blood, the peace officer, acting on behalf of the department, shall serve a notice of order of suspension or revocation of the person's privilege to operate a motor vehicle personally on the arrested person.

(b) If the peace officer serves the notice of order of suspension or revocation, the peace officer shall take possession of any driver's license issued by this state which is held by the person. When the

officer takes possession of a valid driver's license, the officer shall issue, on behalf of the department, a temporary driver's license. The temporary driver's license shall be an endorsement on the notice of the order of suspension or revocation and shall be valid for 30 days from the date of arrest.

(c) The peace officer shall immediately forward a copy of the completed notice of order of suspension form, and any driver's license taken into possession under subdivision (b), with the report required by Section 23158.2, to the department. For purposes of this section, "immediately" means on or before the end of the fifth ordinary business day following the arrest.

SEC. 19. Section 23161 of the Vehicle Code, as amended by Section 45 of Chapter 272 of the Statutes of 1993, is amended to read:

23161. (a) Except as provided in subdivision (e), if the court grants probation to any person punished under Section 23160, in addition to the provisions of Section 23206 and any other terms and conditions imposed by the court, the court shall impose as a condition of probation that the person be subject to one of the following:

(1) Be confined in the county jail for at least 48 hours but not more than six months, and pay a fine of at least three hundred ninety dollars ($390) but not more than one thousand dollars ($1,000). The court may order the Department of Motor Vehicles to suspend the privilege to operate a motor vehicle pursuant to paragraph (1) of subdivision (a) of Section 13352 when this condition of probation is imposed.

(2) Pay a fine of at least three hundred ninety dollars ($390) but not more than one thousand dollars ($1,000), and, if the person gives proof of financial responsibility, as defined in Section 16430, to the Department of Motor Vehicles, have the privilege to operate a motor vehicle restricted for 90 days to necessary travel to and from that person's place of employment and to and from participation in a program described in subdivision (b). If driving a motor vehicle is necessary to perform the duties of the person's employment, the restriction also shall allow the person to drive to locations within the person's scope of employment. Whenever the driving privilege is restricted pursuant to this paragraph, the person shall maintain proof of financial responsibility for three years.

(3) If the court elects to order a 90-day restriction as provided for in paragraph (2), the court shall order that the restriction commence on the date of the reinstatement by the Department of Motor Vehicles of the person's privilege to operate a motor vehicle. If a suspension was imposed pursuant to Section 13353.2, the person shall be advised by the court of all of the following matters:

(A) The person's restricted driver's license does not allow the person to operate a motor vehicle unless and until the suspension under Section 13353.2 has either been served to completion or set aside, and his or her license has been reinstated.

(B) The restriction of the driver's license ordered by the court shall commence upon the reinstatement of the privilege to operate

a motor vehicle.

(b) Except as provided in subdivision (c), in any county where the board of supervisors has approved, and the State Department of Alcohol and Drug Programs has licensed, a program or programs described in Section 11837.3 of the Health and Safety Code, the court shall also impose as a condition of probation that the driver shall enroll and participate in, and successfully complete, an alcohol and other drug education and counseling program, licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code, in the driver's county of residence or employment, as designated by the court.

(c) For persons who are active duty personnel in the United States Navy or Marine Corps, the court, unless the defendant requests otherwise, shall impose as a condition of probation that the driver participate in, and successfully complete, the Navy Alcohol Drug Safety Action Program rather than a program described in Section 11837.3 of the Health and Safety Code.

(d) (1) The court shall revoke the person's probation pursuant to Section 23207, except for good cause shown, for the failure to enroll in, participate in, or complete a program specified in subdivision (b) or (c).

(2) The court, in establishing reporting requirements, shall consult with the county alcohol program administrator. The county alcohol program administrator shall coordinate the reporting requirements with the department and with the State Department of Alcohol and Drug Programs. That reporting shall ensure that all persons who, after being ordered to attend and complete a program, may be identified for either (1) failure to enroll in, or failure to successfully complete, the program, or (2) successful completion of the program as ordered.

(e) Notwithstanding subdivision (a), if the offense occurred in a vehicle requiring a driver with a class A or class B driver's license or with an endorsement specified in Section 15278, the court shall upon conviction order the department to suspend the driver's privilege pursuant to paragraph (1) of subdivision (a) of Section 13352.

SEC. 20. Section 23168 of the Vehicle Code is repealed.

SEC. 21. 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 (b) 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. 22. Section 23181 of the Vehicle Code is amended to read:

23181. (a) If the court grants probation to any person punished under Section 23180, in addition to the provisions of Section 23206 and any other terms and conditions imposed by the court, the court shall impose as a condition of probation that the person be confined in the county jail for at least five 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 suspended by the Department of Motor Vehicles pursuant to paragraph (2) of subdivision (a) of Section 13352.

(b) (1) In any county where the county alcohol program administrator has certified, and the board of supervisors has approved, such a program or programs, the court shall also impose as a condition of probation that the driver shall participate in, and successfully complete, an alcohol and other drug education and counseling program, established pursuant to Section 11837.3 of the Health and Safety Code, as designated by the court.

(2) In any county where the board of supervisors has approved and the State Department of Alcohol and Drug Programs has licensed an alcohol and other drug education and counseling program, the court shall also impose as a condition of probation that the driver enroll in, participate in, and successfully complete, an alcohol and other drug education and counseling program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code, in the driver's county of residence or employment, as designated by the court.

(c) (1) The court shall revoke the person's probation pursuant to Section 23207, except for good cause shown, for the failure to enroll in, participate in, or complete a program specified in subdivision (b).

(2) The court, in establishing reporting requirements, shall consult with the county alcohol program administrator. The county alcohol program administrator shall coordinate the reporting requirements with the department and with the Department of Alcohol and Drug Programs. That reporting shall ensure that all persons who, after being ordered to attend and complete a program, may be identified for either (1) failure to enroll in, or failure to successfully complete, the program, or (2) successful completion of the program as ordered.

SEC. 23. Section 23211 of the Vehicle Code is amended to read:

23211. A court shall not order or refer any person to any program, including an alcohol and other drug education program or a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code, or to a provider of a program, in which any employee of the court has a direct or

indirect economic interest.

SEC. 24. Section 23241 of the Vehicle Code is amended to read:

23241. (a) The Department of Motor Vehicles shall certify or cause to be certified ignition interlock devices required by this article and publish a list of approved devices.

(b) The Department of Motor Vehicles shall utilize information from an independent agency to certify ignition interlock devices on or off the premises of the manufacturer or manufacturer's agent, in accordance with the guidelines. The cost of certification shall be borne by the manufacturers of interlock ignition devices. In certifying the devices, those which do not impede the safe operation of the vehicle, and which have the fewest opportunities to be bypassed so as to render the provisions of this article ineffective, shall be certified.

(c) No model of ignition interlock device shall be certified unless it meets the accuracy requirements and specifications provided in the guidelines adopted by the National Highway Traffic Safety Administration.

(d) All manufacturers of ignition interlock devices that meet the requirement of subdivision (c), that are certified in a manner approved by the Department of Motor Vehicles, and that intend to market the devices in this state, first shall apply to the Department of Motor Vehicles on forms provided by that department. The application shall be accompanied by a fee in an amount not to exceed the amount necessary to cover the costs incurred by the Department of Motor Vehicles in carrying out the provisions of this section.

(e) The Administrative Office of the Courts shall ensure that standard forms and procedures are developed for documenting decisions and compliance and communicating results to relevant agencies. These forms shall include all of the following:

(1) An "Order to Install," to be issued to the probationer at the time of sentencing. This shall include the conditions of the sentence and be accompanied by information concerning approved installation locations in the jurisdiction. Information regarding approved installation locations shall be provided by manufacturers with ignition interlock devices that have been certified in accordance with this section. Copies shall be provided for the court, the probationer, and the probation department, or other monitoring agency.

(2) A "Verification of Installation" form to be returned to the court by the probationer within a specified time period. Copies shall be provided for the court, the probationer, the manufacturer or manufacturer's agent, and the probation department or other monitoring agency.

(3) Verification of calibration, and compliance, forms and procedures to ensure continued use of the interlock device during the probation period and to ensure compliance with maintenance requirements. The maintenance period shall be standardized at 60 days to maximize monitoring checks for equipment tampering.

SEC. 25. Section 23246 of the Vehicle Code is amended to read:

23246. (a) Notwithstanding any other provisions of law, if any person is convicted of a violation of Section 23152 or 23153, and the offense occurred within seven years of a separate violation of Section 23152 or 23153 which resulted in a conviction, the court shall, subject to this article, prohibit the person from operating a motor vehicle unless that vehicle is equipped with a functioning ignition interlock device, certified pursuant to Section 23241, unless the court finds that to do so would not be in the interest of justice and enters its finding on the record. Nothing in this section permits a person to drive without a valid driver's license. The court shall advise the person that installation of an ignition interlock device on a vehicle does not allow the person to drive without a valid driver's license.

(b) The court shall order the installation of an ignition interlock device on any vehicle that a person subject to subdivision (a) owns or operates. The court shall determine which owned or operated vehicles shall be subject to the installation order and may order that the person shall nor operate a vehicle that is owned by the person, thereby permitting the court to exempt that vehicle from the installation order. The court shall order the device to remain installed on the vehicle for a period of one to three years following the restoration of the person's driving privileges. The court shall make a determination as to whether the person has the ability to pay for the ignition interlock device and, if the person claims inability to pay for the installation, the court shall determine the person's ability to pay in accordance with subdivision (b) of Section 1203.1b of the Penal Code. If the court determines that the person is unable to pay, the court may order a payment plan. The plan may defer payment over a period that exceeds the period of the court's ignition interlock device installation order. The person shall pay the manufacturer of the ignition interlock device, or the manufacturer's agent, directly for the cost of the device and its installation, in accordance with any payment schedule ordered by the court. If the court determines that there is no feasible way for the person to pay for the device, or if the manufacturer declines the person's application for a payment plan, or if the court exempts the person in the interest of justice in accordance with subdivision (a), the court shall not order an ignition interlock device installed, but may order the defendant to perform an appropriate amount of community service.

(c) The court shall require the person to provide proof of installation to the court or the probation officer within 30 days of the conviction, or within 30 days of the person's release from county jail, state prison, or a locked residential treatment program, on a form prescribed pursuant to Section 23241. If the driving privilege of the person is not also suspended or revoked, the court shall require the person to surrender his or her driver's license to the court until that proof is submitted and verified by the court or probation officer. If the person fails to provide proof of installation within that period, absent a finding by the court of good cause for that failure which is

entered in the court record, the court shall notify the Department of Motor Vehicles, which shall revoke the person's driving privilege for a period of one year. The period of revocation for failure to provide proof of installation shall be added to any previously ordered suspension or revocation.

(d) A person whose driving privilege is restored prior to the end of the period ordered in subdivision (b), may petition the court to review whether continued restriction pursuant to this section is necessary.

(e) A person whose driving privilege is restricted pursuant to this section shall arrange for each vehicle with an ignition interlock device to be serviced by the installer at least once every 60 days in order for the installer to recalibrate the device and monitor the operation of the device. The installer shall notify the court or probation officer if the person fails to return for recalibration or if the device indicates that the person has attempted to bypass or tamper with the device or has attempted to start the vehicle while intoxicated. Unless so ordered by the court, there shall be no obligation on the part of the installer to notify the court or probation officer if the person has complied with all of the requirements of this article.

(f) The court shall immediately suspend the privilege to operate a motor vehicle of, and issue a bench warrant for, any person who fails to comply with any notice from the court or probation officer to comply with the installation period ordered pursuant to subdivision (b) or with the reporting requirement of subdivision (e), or who three or more times fails to comply with any requirement for the maintenance or calibration of the ignition interlock device.

(g) The court shall include on the abstract of conviction or violation submitted to the Department of Motor Vehicles under Section 1803 or 1816, the requirement for, and the period of, the use of a certified ignition interlock device under this section. The records of the Department of Motor Vehicles shall reflect mandatory use of the device.

(h) If a person has a medical problem that does not permit the person to breathe with sufficient strength to activate the device, and provides the court with a physician's report that documents this condition to the satisfaction of the court, the court shall not order an ignition interlock device installed but may order the defendant to perform an appropriate amount of community service. The court may delay the installation of the device if the physician's report indicates that the person's condition may improve sufficiently to permit use of the device.

(i) The owner of a vehicle that has an ignition interlock device installed shall notify the court of a pending sale of the vehicle prior to transfer of the vehicle to the new owner. The court shall determine whether there is a replacement vehicle and shall order installation of the ignition interlock device in the replacement vehicle for the duration of the sentence. If the court determines that

there is no replacement vehicle, the court may suspend the restriction or order the person to perform an appropriate amount of community service.

(j) This article does not restrict a court from requiring installation of an ignition interlock device pursuant to Article 4 (commencing with Section 23235) for any persons to whom subdivision (a) does not apply.

(k) For purposes of this section, "vehicle" does not include a motorcycle until the state certifies an ignition interlock device that can be installed on a motorcycle. However, a court shall order a person subject to this section not to operate a motorcycle for the duration of the ignition interlock order.

(*l*) For purposes of this section, "owned" means solely owned or owned in conjunction with another person or legal entity. For purposes of this section "operates" includes operating vehicles that are not owned by the person subject to this section.

SEC. 26. Section 23247 of the Vehicle Code is amended to read:

23247. (a) It is unlawful for a person to knowingly rent, lease, or lend a motor vehicle to another person known to have had his or her driving privilege restricted under a condition of probation as provided in Section 23246, unless the vehicle is equipped with a functioning, certified ignition interlock device. Any person, whose driving privilege is restricted pursuant to Section 23246 shall notify any other person who rents, leases, or loans a motor vehicle to him or her of the driving restriction imposed under that section.

(b) It is unlawful for any person whose driving privilege is restricted pursuant to Section 23246 to request or solicit any other person to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing the person so restricted with an operable motor vehicle.

(c) It is unlawful to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing an operable motor vehicle to a person whose driving privilege is restricted pursuant to Section 23246.

(d) It is unlawful to tamper with, or circumvent the operation of, an ignition interlock device.

(e) It it unlawful for any person whose driving privilege is restricted pursuant to Section 23246 to operate any vehicle that a court orders him or her not to operate.

(f) Any person convicted of a violation of this section shall be punished by imprisonment in the county jail for not more than six months or by a fine of not more than five thousand dollars ($5,000), or by both that fine and imprisonment.

(g) If any person who is restricted pursuant to Section 23246 violates this section, the court shall notify the Department of Motor Vehicles, which shall revoke the person's driving privilege for one year from the date the court finds that the person violated this section. Immediately upon revocation, the order for installation imposed in accordance with subdivision (b) of Section 23246 shall be

deemed extended for a period equal to the period of revocation and until the person has petitioned the court for review of a continued restriction, pursuant to subdivision (d) of Section 23246.

(h) If any person who is restricted pursuant to Section 23246 violates subdivision (e), the court shall order the installation of an ignition interlock device on the vehicle that the person used in violating subdivision (e). The order shall be consistent with the provisions of Section 23246.

(i) It is an affirmative defense to a criminal prosecution, with the exception of a prosecution for violation of Section 12500, 12951, 14601, 14601.1, 14601.2, 14061.3, or 14601.4, or a probation violation under this article if the defendant or violator can show either of the following circumstances:

(1) If he or she had his or her driving privilege restricted pursuant to Section 23246 and leased, rented, or borrowed a vehicle for an emergency use when no other feasible alternative was available, or for a bona fide business purpose when he or she was away from his or her regular place of business.

(2) If he or she rented, leased, or loaned a vehicle to another person, whose driving privilege was restricted pursuant to Section 23246, for an emergency use when no other feasible alternative was available, or for a bona fide business purpose when the person subject to the restriction was away from his or her regular place of business.

(j) Nothing in this section permits a person to drive without a valid driver's license. The court shall advise the person that installation of an ignition interlock device on a vehicle does not allow the person to drive without a valid driver's license.

SEC. 27. Section 12.1 of this bill incorporates amendments to Section 13353.2 of the Vehicle Code proposed by both this bill and SB 689. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, (2) each bill amends Section 13353.2 of the Vehicle Code, and (3) this bill is enacted after SB 689, in which case Section 12 of this bill shall not become operative.

SEC. 28. Section 15.5 of this bill incorporates amendments to Section 13557 of the Vehicle Code proposed by both this bill and SB 689. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, (2) each bill amends Section 13557 of the Vehicle Code, and (3) this bill is enacted after SB 689, in which case Section 15 of this bill shall not become operative.

SEC. 29. Section 17.5 of this bill incorporates amendments to Section 23158.2 of the Vehicle Code proposed by both this bill and SB 689. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, (2) each bill amends Section 23158.2 of the Vehicle Code, and (3) this bill is enacted after SB 689, in which case Section 17 of this bill shall not become operative.

CHAPTER 1245

An act to amend Section 1502 of, and to add Section 1530.9 to, the Health and Safety Code, to amend Sections 4094, 5585.58, and 5600.4 of, and to add Sections 4094.5, 4094.6, and 4094.7 to, the Welfare and Institutions Code, relating to mental health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. It is the intent of the Legislature in enacting this act to provide in this state an alternative to out-of-state or acute placement and state hospitalization for seriously emotionally disturbed children and adolescents needing a greater level of care than can be provided in a group home but in a less restrictive and more community-based facility than a state or acute institution.

SEC. 2. 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 that 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 that 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 that 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 that 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, that 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 that 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 Article 1 (commencing with Section 5670) of Chapter 2.5 of Part 2 of Division 5 of the Welfare and Institutions Code.

(8) "Community treatment facility" means any residential facility that provides mental health treatment services to children in a group setting and that has the capacity to provide secure containment. Program components shall be subject to program standards developed and enforced by the State Department of Mental Health pursuant to Section 4094 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, that 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, that 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. 3. Section 1530.9 is added to the Health and Safety Code, to read:

1530.9. (a) The department shall, with the advice and assistance of the State Department of Mental Health, counties, parent and children's advocacy groups, and group home providers, adopt regulations for the licensing of licensed community treatment facilities at the earliest possible date, but no later than December 31, 1994.

(b) The regulations adopted pursuant to this section shall specify requirements for facility operation and maintenance.

(c) Program certification and standards enforcement shall be the responsibility of the State Department of Mental Health, pursuant to Section 4094 of the Welfare and Institutions Code. The State Department of Social Services shall not issue a community treatment facility license unless the applicant has obtained certification of compliance from the State Department of Mental Health.

SEC. 4. Section 4094 of the Welfare and Institutions Code is amended to read:

4094. (a) The State Department of Mental Health shall establish, by regulations adopted at the earliest possible date, but no later than December 31, 1994, program standards for any facility licensed as a community treatment facility. This section shall apply only to community treatment facilities described in this subdivision.

(b) A certification of compliance issued by the State Department of Mental Health shall be a condition of licensure for the community treatment facility by the State Department of Social Services. The department may, upon the request of a county, delegate the certification and supervision of a community treatment facility to the county department of mental health.

(c) The State Department of Mental Health shall adopt regulations to include, but not be limited to, the following:

(1) Procedures by which the Director of Mental Health shall

certify that a facility requesting licensure as a community treatment facility pursuant to Section 1502 of the Health and Safety Code is in compliance with program standards established pursuant to this section.

(2) Procedures by which the Director of Mental Health shall deny a certification to a facility or decertify a facility licensed as a community treatment facility pursuant to Section 1502 of the Health and Safety Code, but no longer complying with program standards established pursuant to this section, in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(3) Provisions for site visits by the State Department of Mental Health for the purpose of reviewing a facility's compliance with program standards established pursuant to this section.

(4) Provisions for the community care licensing staff of the State Department of Social Services to report to the State Department of Mental Health when there is reasonable cause to believe that a community treatment facility is not in compliance with program standards established pursuant to this section.

(5) Provisions for the State Department of Mental Health to provide consultation and documentation to the State Department of Social Services in any administrative proceeding regarding denial, suspension, or revocation of a community treatment facility license.

(d) The standards adopted by regulations pursuant to subdivision (a) shall include, but not be limited to, standards for treatment staffing and for the use of psychotropic medication, discipline, and restraint in the facilities. The standards shall also meet the requirements of Section 4094.5.

(e) During the initial public comment period for the adoption of the regulations required by this section, the community care facility licensing regulations proposed by the State Department of Social Services and the program standards proposed by the State Department of Mental Health shall be presented simultaneously.

(f) A minor shall be admitted to a community treatment facility only if the requirements of Section 4094.5 and either of the following conditions is met:

(1) The minor is within the jurisdiction of the juvenile court, and has made voluntary application for mental health services pursuant to Section 6552.

(2) Informed consent is given by a parent, guardian, conservator, or other person having custody of the minor.

(g) Any minor admitted to a community treatment facility shall have the same due process rights afforded to a minor who may be admitted to a state hospital, pursuant to the holding in In re Roger S. (1977) 19 Cal. 3d 921. Minors who are wards or dependents of the court and to whom this subdivision applies shall be afforded due process in accordance with Section 6552 and related case law, including In re Michael E. (1975) 15 Cal. 3d 183. Regulations adopted pursuant to Section 4094 shall specify the procedures for ensuring

these rights, including provisions for notification of rights and the time and place of hearings.

(h) Notwithstanding Section 13340 of the Government Code, the sum of forty-five thousand dollars ($45,000) is hereby appropriated annually from the General Fund to the State Department of Mental Health for one personnel year to carry out the provisions of this section.

SEC. 5. Section 4094.5 is added to the Welfare and Institutions Code, to read:

4094.5. Regulations for community treatment facilities adopted pursuant to Section 4094 shall include, but not be limited to, the following:

(a) Only seriously emotionally disturbed children, as defined in Section 5699.2, for whom other less restrictive mental health interventions have been tried, as documented in the case plan, or who are currently placed in an acute psychiatric hospital or state hospital or in a facility outside the state for mental health treatment, and who may require periods of containment to participate in, and benefit from, mental health treatment, shall be placed in a community treatment facility. For purposes of this subdivision, lesser restrictive interventions shall include, but are not limited to, outpatient therapy, family counseling, case management, family preservation efforts, special education classes, or nonpublic schooling.

(b) A facility shall have the capacity to provide secure containment. For purposes of this section, a facility or an area of a facility shall be defined as secure if residents are not permitted to leave the premises of their own volition. All or part of a facility, including its perimeter, but not a room alone, may be locked or secure. If a facility uses perimeter fencing, all beds within the perimeter shall be considered secure beds. All beds outside of a locked or secure wing or facility shall be considered nonsecure beds.

(c) A locked or secure program in a facility shall not be used for disciplinary purposes, but shall be used for the protection of the minor. It may be used as a treatment modality for a child needing that level of care. The use of the secure facility program shall be for as short a period as possible, consistent with the child's case plan and safety. The department shall develop regulations governing the oversight, review, and duration of the use of secure beds.

(d) Fire clearance approval shall be obtained pursuant to Section 1531.2 of the Health and Safety Code.

(e) (1) Prior to admission, any child admitted to a community treatment facility shall have been certified as seriously emotionally disturbed, as defined in Section 5699.2, by a licensed mental health professional. The child shall, prior to admission, have been determined to be in need of the level of care provided by a community treatment facility, by a county interagency placement committee, as prescribed by Section 4096.

(2) Any county cost associated with the certification and the

determination provided for in paragraph (1) may be billed as a utilization review expense.

SEC. 6. Section 4094.6 is added to the Welfare and Institutions Code, to read:

4094.6. The patients' rights provisions contained in Sections 5325, 5325.1, 5325.2, and 5326 shall be available to any child admitted to, or eligible for admission to, a community treatment facility. Every child placed in a community treatment facility shall have a right to a hearing by writ of habeas corpus, within two judicial days of the filing of a petition for the writ of habeas corpus with the superior court of the county in which the facility is located, for his or her release. Regulations adopted pursuant to Section 4094 shall specify the procedures by which this right shall be ensured. These regulations shall generally be consistent with the procedures contained in Section 5275 et seq., concerning habeas corpus for individuals, including children, subject to various involuntary holds.

SEC. 7. Section 4094.7 is added to the Welfare and Institutions Code, to read:

4094.7. (a) A community treatment facility may have both secure and nonsecure beds. However, the State Department of Mental Health shall limit the total number of beds in community treatment facilities to not more than 400 statewide. The State Department of Mental Health shall certify community treatment facilities in such a manner as to ensure an adequate dispersal of these facilities within the state. The State Department of Mental Health shall ensure that there is at least one facility in each of the State Department of Social Services' four regional licensing divisions.

(b) The State Department of Mental Health shall notify the State Department of Social Services when a facility has been certified and has met the program standards pursuant to Section 4094. The State Department of Social Services shall license a community treatment facility for a specified number of secure beds and a specified number of nonsecure beds. The number of secure and nonsecure beds in a facility shall be modified only with the approval of both the State Department of Social Services and the State Department of Mental Health.

(c) The State Department of Mental Health shall develop, with the advice of the State Department of Social Services, county representatives, providers, and interested parties, the criteria to be used to determine which programs among applicant providers shall be licensed. The State Department of Mental Health shall determine which agencies best meet the criteria, certify them in accordance with Section 4094, and refer them to the State Department of Social Services for licensure.

(d) Any community treatment facility proposing to serve seriously emotionally disturbed foster children shall be incorporated as a nonprofit organization.

(e) No later than January 1, 1996, the State Department of Mental Health shall submit its recommendation to the appropriate policy

committees of the Legislature relative to the limitation on the number of beds set forth in this section.

SEC. 8. Section 5585.58 of the Welfare and Institutions Code is amended to read:

5585.58. This part shall be funded under the Bronzan-McCorquodale Act pursuant to Part 2 (commencing with Section 5600), as part of the county performance contract.

SEC. 9. Section 5600.4 of the Welfare and Institutions Code is amended to read:

5600.4. Community mental health services should be organized to provide an array of treatment options in the following areas, to the extent resources are available:

(a) Precrisis and Crisis Services. Immediate response to individuals in precrisis and crisis and to members of the individual's support system, on a 24-hour, seven-day-a-week basis. Crisis services may be provided offsite through mobile services. The focus of precrisis services is to offer ideas and strategies to improve the person's situation, and help access what is needed to avoid crisis. The focus of crisis services is stabilization and crisis resolution, assessment of precipitating and attending factors, and recommendations for meeting identified needs.

(b) Comprehensive Evaluation and Assessment. Includes, but is not limited to, evaluation and assessment of physical and mental health, income support, housing, vocational training and employment, and social support services needs. Evaluation and assessment may be provided offsite through mobile services.

(c) Individual Service Plan. Identification of the short- and long-term service needs of the individual, advocating for, and coordinating the provision of these services. The development of the plan should include the participation of the client, family members, friends, and providers of services to the client, as appropriate.

(d) Medication Education and Management. Includes, but is not limited to, evaluation of the need for administration of, and education about, the risks and benefits associated with medication. Clients should be provided this information prior to the administration of medications pursuant to state law. To the extent practicable, families and caregivers should also be informed about medications.

(e) Case Management. Client-specific services that assist clients in gaining access to needed medical, social, educational, and other services. Case management may be provided offsite through mobile services.

(f) Twenty-four Hour Treatment Services. Treatment provided in any of the following: an acute psychiatric hospital, an acute psychiatric unit of a general hospital, a psychiatric health facility, an institute for mental disease, a community treatment facility, or community residential treatment programs, including crisis, transitional and long-term programs.

(g) Rehabilitation and Support Services. Treatment and

rehabilitation services designed to stabilize symptoms, and to develop, improve, and maintain the skills and supports necessary to live in the community. These services may be provided through various modes of services, including, but not limited to, individual and group counseling, day treatment programs, collateral contacts with friends and family, and peer counseling programs. These services may be provided offsite through mobile services.

(h) Vocational Rehabilitation. Services which provide a range of vocational services to assist individuals to prepare for, obtain, and maintain employment.

(i) Residential Services. Room and board and 24-hour care and supervision.

(j) Services for Homeless Persons. Services designed to assist mentally ill persons who are homeless, or at risk of being homeless, to secure housing and financial resources.

(k) Group Services. Services to two or more clients at the same time.

SEC. 10. (a) The Director of Mental Health shall immediately initiate the necessary state medicaid plan amendment authorizing federal funds pursuant to Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.) for mental health treatment in a community treatment facility.

(b) The Director of Social Services shall immediately initiate the necessary state plan amendments authorizing federal funds pursuant to Title IV of the federal Social Security Act (42 U.S.C. 601 et seq.) for residential care in a community treatment facility.

(c) Placement of foster children in community treatment facilities shall be contingent upon approval by 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 the Aid to Families with Dependent Children-Foster Care (AFDC-FC) payment on behalf of a child placed in a community treatment facility as defined in paragraph (8) of subdivision (a) of Section 1502 of the Health and Safety Code.

(d) To the extent that federal funds provided for pursuant to Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.) may be used to support children in community treatment facilities, the Director of Health Services and the Director of Mental Health, with the advice of the counties, providers, and other interested parties, shall review the program requirements, hospitalization costs, and other pertinent information to determine ratesetting methodology. The Director of Mental Health and the Director of Health Services shall propose a ratesetting method to the appropriate policy and fiscal committees of the Legislature by June 30, 1994.

(e) To the extent that state foster care funds may be used to support children in community treatment facilities, the Director of

Social Services, with the advice of the counties, providers, and other interested parties, shall review the program requirements, housing needs, and other pertinent information to determine ratesetting methodology. The Director of Social Services shall propose a ratesetting method for board and care to the appropriate policy and fiscal committees of the Legislature by June 30, 1994.

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 that seriously emotionally disturbed children may be provided needed treatment at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1246

An act to amend Section 22531 of the Streets and Highways Code, relating to assessments.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 22531 of the Streets and Highways Code is amended to read:

22531. "Maintain" or "maintenance" means the furnishing of services and materials for the ordinary and usual maintenance, operation, and servicing of any improvement, including:

(a) Repair, removal, or replacement of all or any part of any improvement.

(b) Providing for the life, growth, health, and beauty of landscaping, including cultivation, irrigation, trimming, spraying, fertilizing, or treating for disease or injury.

(c) The removal of trimmings, rubbish, debris, and other solid waste.

(d) The cleaning, sandblasting, and painting of walls and other improvements to remove or cover graffiti.

CHAPTER 1247

An act relating to insurance.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. (a) On or before April 1, 1994, the Bureau of State Audits shall publish an audit of the Department of Insurance to determine all of the following:

(1) If the fees levied under Section 12979 of the Insurance Code are based upon the actual costs to the department for enforcing Proposition 103.

(2) If the daily rates charged by the department for the examination of insurers and any other rate, charge, or fee levied under Section 730 et seq. of the Insurance Code, are based upon the actual cost to the department for conducting those examinations.

(b) The audit shall detail the actual costs for each activity. If in any case, the fee exceeds the actual cost, or the cost exceeds the fee, the audit shall note the difference.

(c) The report shall be a public record and copies of it shall be given to the Governor and to members of the Legislature.

CHAPTER 1248

An act to repeal and add Section 769.2 of the Insurance Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. The Legislature finds and declares that it was not the intent of the people in enacting Proposition 103 to diminish state revenues or impact the General Fund. The Legislature further finds and declares that proper implementation of the rollback provisions of Section 1861.01 of the Insurance Code does not impose upon the State of California any obligation to refund tax revenues in the form of premium taxes paid during the rollback period.

The Legislature further finds and declares that employees of, and third-party independent contractors to, any insurer subject to the rollback provision of Section 1861.01 of the Insurance Code or any regulations promulgated to implement this section, are not obligated to participate in those insurers' rollback obligations, nor are those

employees or independent contractors obligated to refund any compensation previously paid to them for services rendered during the rollback period.

The Legislature further finds and declares that Section 1861.01 of the Insurance Code does not require or permit any order, settlement agreement, consent decree, or other resolution of an insurer's rollback obligation, including any regulations promulgated by the commissioner, directly or indirectly, to require the State of California to contribute any amount to any rollback obligation, or be interpreted to permit or require the insurer to recover any amount from its employees or independent contractors in order to achieve a fair rate of return as provided by the California Supreme Court in CalFarm v. Deukmejian, 48 Cal. 3d 805.

The Legislature finds and declares that this statute furthers the purpose of Proposition 103. To effectuate the foregoing findings and declarations, the Legislature hereby repeals and reenacts Section 769.2 of the Insurance Code as provided in this act.

SEC. 2. Section 769.2 of the Insurance Code is repealed.

SEC. 3. Section 769.2 is added to the Insurance Code, to read:

769.2. (a) In determining the amount of an insurer's rollback obligation pursuant to Section 1861.01 or any regulations promulgated to implement this section, each insurer shall be given full credit for all premium taxes, commissions, and brokerage expenses that the insurer actually paid during the rollback period. No insurer shall be required or permitted to seek, directly or indirectly, reimbursement from the state of any premium taxes paid on premiums earned during the rollback period or reimbursement from any employee or third-party contractor of an insurer of any compensation paid to them for services rendered during the rollback period.

(b) The provisions of this section and the findings and declarations in support thereof take effect immediately upon enactment and apply to any order, settlement agreement, consent decree, or any other resolution of an insurer's rollback obligation pursuant to Section 1861.01 that occurs after the effective date of this section.

(c) Nothing in this section shall be deemed in any regulatory or judicial proceeding or for any other purpose to constitute legislative intent to endorse or approve any regulations on the issue of Proposition 103 rollback refunds.

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:

To provide for the prompt resolution of issues related to the computation of rebates to consumers arising out of Proposition 103 it is necessary for this act to take effect immediately.

CHAPTER 1249

An act to amend Section 3262 of the Civil Code, relating to works of improvement.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 3262 of the Civil Code is amended to read:

3262. (a) Neither the owner nor original contractor by any term of their contract, or otherwise, shall waive, affect, or impair the claims and liens of other persons whether with or without notice except by their written consent, and any term of the contract to that effect shall be null and void. Any written consent given by any claimant pursuant to this subdivision shall be null, void, and unenforceable unless and until the claimant executes and delivers a waiver and release. Such a waiver and release shall be binding and effective to release the owner, construction lender, and surety on a payment bond from claims and liens only if the waiver and release follows substantially one of the forms set forth in this section and is signed by the claimant or his or her authorized agent, and, in the case of a conditional release, there is evidence of payment to the claimant. Evidence of payment may be by the claimant's endorsement on a single or joint payee check which has been paid by the bank upon which it was drawn or by written acknowledgment of payment given by the claimant.

(b) No oral or written statement purporting to waive, release, impair or otherwise adversely affect a claim is enforceable or creates any estoppel or impairment of a claim unless (1) it is pursuant to a waiver and release prescribed herein, or (2) the claimant had actually received payment in full for the claim.

(c) This section does not affect the enforceability of either an accord and satisfaction regarding a bona fide dispute or any agreement made in settlement of an action pending in any court provided the accord and satisfaction or agreement and settlement make specific reference to the mechanic's lien, stop notice, or bond claims.

(d) The waiver and release given by any claimant hereunder shall be null, void, and unenforceable unless it follows substantially the following forms in the following circumstances:

(1) Where the claimant is required to execute a waiver and release in exchange for, or in order to induce the payment of, a progress payment and the claimant is not, in fact, paid in exchange for the waiver and release or a single payee check or joint payee check is given in exchange for the waiver and release, the waiver and release shall follow substantially the following form:

CONDITIONAL WAIVER AND RELEASE UPON PROGRESS PAYMENT

Upon receipt by the undersigned of a check from _____ in the sum of $ _____
(Maker of Check) (Amount of Check)
payable to _____
(Payee or Payees of Check)
and when the check has been properly endorsed and has been paid by the bank upon which it is drawn, this document shall become effective to release any mechanic's lien, stop notice, or bond right the undersigned has on the job of _____ located at _____
(Owner) (Job Description)
to the following extent. This release covers a progress payment for labor, services, equipment, or material furnished to _____ through _____
(Your Customer) (Date)
only and does not cover any retentions retained before or after the release date; extras furnished before the release date for which payment has not been received ; extras or items furnished after the release date. Rights based upon work performed or items furnished under a written change order which has been fully executed by the parties prior to the release date are covered by this release unless specifically reserved by the claimant in this release. This release of any mechanic's lien, stop notice, or bond right shall not otherwise affect the contract rights, including rights between parties to the contract based upon a rescission, abandonment, or breach of the contract, or the right of the undersigned to recover compensation for furnished labor, services, equipment, or material covered by this release if that furnished labor, services, equipment, or material was not compensated by the progress payment. Before any recipient of this document relies on it, said party should verify evidence of payment to the undersigned.

Dated: _____ _____
(Company Name)
By _____
(Title)

(2) Where the claimant is required to execute a waiver and release in exchange for, or in order to induce payment of, a progress payment and the claimant asserts in the waiver it has, in fact, been paid the progress payment, the waiver and release shall follow substantially the following form:

UNCONDITIONAL WAIVER AND RELEASE UPON PROGRESS PAYMENT

The undersigned has been paid and has received a progress payment in the sum of $_____ for labor, services, equipment, or material furnished to

_____ on the job of _____
(Your Customer) (Owner)

located at _____ and does
(Job Description)

hereby release any mechanic's lien, stop notice, or bond right that the undersigned has on the above referenced job to the following extent. This release covers a progress payment for labor, services, equipment, or materials furnished to

_____ through _____
(Your Customer) (Date)

only and does not cover any retentions retained before or after the release date; extras furnished before the release date for which payment has not been received ; extras or items furnished after the release date. Rights based upon work performed or items furnished under a written change order which has been fully executed by the parties prior to the release date are covered by this release unless specifically reserved by the claimant in this release. This release of any mechanic's lien, stop notice, or bond right shall not otherwise affect the contract rights, including rights between parties to the contract based upon a rescission, abandonment, or breach of the contract, or the right of the undersigned to recover compensation for furnished labor, services, equipment, or material covered by this release if that furnished labor, services, equipment, or material was not compensated by the progress payment.

Dated: _____ _____
(Company Name)

By _____
(Title)

Each unconditional waiver in this provision shall contain the following language, in at least as large a type as the largest type otherwise on the document:
"NOTICE: THIS DOCUMENT WAIVES RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL RELEASE FORM."

(3) Where the claimant is required to execute a waiver and release in exchange for, or in order to induce the payment of, a final

payment and the claimant is not, in fact, paid in exchange for the waiver and release or a single payee check or joint payee check is given in exchange for the waiver and release, the waiver and release shall follow substantially the following form:

CONDITIONAL WAIVER AND RELEASE UPON FINAL PAYMENT

Upon receipt by the undersigned of a check from _____ in the sum of $_____ payable to _____ and when the check has been properly endorsed and has been paid by the bank upon which it is drawn, this document shall become effective to release any mechanic's lien, stop notice, or bond right the undersigned has on the job of

_____ located at _____
(Owner) (Job Description)

This release covers the final payment to the undersigned for all labor, services, equipment, or material furnished on the job, except for disputed claims for additional work in the amount of $_____. Before any recipient of this document relies on it, the party should verify evidence of payment to the undersigned.

Dated: _____ _____
(Company Name)

By _____
(Title)

(4) Where the claimant is required to execute a waiver and release in exchange for, or in order to induce payment of, a final payment and the claimant asserts in the waiver it has, in fact, been paid the final payment, the waiver and release shall follow substantially the following form:

UNCONDITIONAL WAIVER AND RELEASE UPON FINAL PAYMENT

The undersigned has been paid in full for all labor, services, equipment or material furnished to

_____ on the job of _____
(Your Customer) (Owner)

located at _____ and does
(Job Description)

hereby waive and release any right to a mechanic's lien, stop notice, or any right against a labor and material bond on the job, except for disputed claims for extra work in the amount of $_____.

Dated: _____ _____
(Company Name)

By _____

(Title)

Each unconditional waiver in this provision shall contain the following language, in at least as large a type as the largest type otherwise on the document:
"NOTICE: THIS DOCUMENT WAIVES RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL RELEASE FORM."

CHAPTER 1250

An act to amend Section 8610.14 of the Fish and Game Code, relating to fish and game, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 8610.14 of the Fish and Game Code is amended to read:

8610.14. (a) Prior to January 1, 1994, the commission shall establish four new ecological reserves in ocean waters along the mainland coast. Each ecological reserve shall have a surface area of at least two square miles. The commission shall restrict the use of these ecological reserves to scientific research relating to the management and enhancement of marine resources, including, but not limited to, scientific research as it relates to sportfishing and commercial fishing.

Recreational uses, including, but not limited to, hiking, walking, viewing, swimming, diving, surfing, and transient boating are not in conflict with this section.

(b) Prior to establishing the four ecological reserves, the commission shall conduct a public hearing at each of the recommended sites or at the nearest practicable location.

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:

Section 14 of Article X B of the Constitution requires the Fish and Game Commission to establish four new ecological reserves by January 1, 1994. In order to hold the public hearings required by this act prior to establishing the ecological reserves, it is necessary that

this act take effect immediately.

CHAPTER 1251

An act to amend Section 5907 of the Public Resources Code, relating to parks and recreation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 5907 of the Public Resources Code is amended to read:

5907. All money deposited in the fund shall be available for expenditure, in accordance with Section 5921, for the purposes set forth below, in amounts not to exceed the following:

(a) One hundred sixty-six million dollars ($166,000,000) to the Department of Parks and Recreation for grants to counties, cities, cities and counties, districts, and nonprofit organizations for acquisition, development, rehabilitation, or restoration of real property for parks, beaches, wildlife habitat, natural lands, recreation, or preservation of historical resources, including an amount not to exceed two million four hundred ninety thousand dollars ($2,490,000) for state administrative costs, in accordance with the following schedule:

(1) One hundred twenty million dollars ($120,000,000) for grants to counties, cities, and districts on a per capita basis for the acquisition, development, rehabilitation, or restoration of real property for parks, beaches, wildlife habitat, natural lands, and recreation, except that each county is entitled to not less than one hundred thousand dollars ($100,000).

(2) Twenty million dollars ($20,000,000) for expenditure by the Department of Parks and Recreation for the purpose of the Roberti-Z'berg-Harris Urban Open Space and Recreation Program Act (Chapter 3.2 (commencing with Section 5620) of Division 5 of the Public Resources Code).

(3) Ten million dollars ($10,000,000) for competitive grants for park, beach, and recreational purposes to public agencies which provide significant park and recreational opportunities to the general public and are not eligible for grants pursuant to paragraph (1).

(4) Eleven million dollars ($11,000,000) for competitive grants to public agencies and nonprofit organizations for acquisition, development, rehabilitation, or restoration of historical or archeological resources and for historical and archeological resources preservation projects and costs of planning and interpretation. Not

less than one million dollars ($1,000,000) shall be used for archeological resources preservation purposes.

(5) Five million dollars ($5,000,000) for competitive grants to public agencies and nonprofit organizations for acquisition and development of land and rights-of-way for bicycle, horse, hiking, and handicapped access trails.

(b) Three hundred thirty-eight million seven hundred thousand dollars ($338,700,000) to the Department of Parks and Recreation for acquisition of parklands, wildlife habitat, coastal, and natural lands in California, and for grants to local agencies and nonprofit organizations, including an amount not to exceed five million eighty thousand five hundred dollars ($5,080,500) for state administrative costs, in accordance with the following schedule:

(1) Ninety-eight million six hundred thousand dollars ($98,600,000) to the Department of Parks and Recreation for acquisition of real property in accordance with the following schedule:

(A) Twelve million dollars ($12,000,000) for acquisition of land for the California Redwood State Parks, including, but not limited to, Big Basin Redwoods, Butano, Calaveras Big Trees, Forest of Nisene Marks, Hendy Woods, Humboldt Lagoons, Humboldt Redwoods, Jedediah Smith Redwoods, Portola, Prairie Creek Redwoods, Richardson Grove, and Sinkyone Wilderness State Parks; Benbow Lake State Recreation Area, Fort Ross State Historical Park, and Paul M. Dimmick State Wayside Campground; provided that each dollar up to at least ten million dollars ($10,000,000) from the funds to be spent pursuant to this subparagraph shall be matched with an equal amount in money or property from private gifts, city or county appropriations, or alternative sources other than the State of California.

(B) Five million dollars ($5,000,000) for acquisition of land within and adjacent to Anza-Borrego Desert State Park.

(C) Nineteen million dollars ($19,000,000) for acquisition of land in the Palm Canyon and Andreas Canyon region near Palm Springs for a park for the preservation of Indian heritage and of native palms.

(D) Seven million dollars ($7,000,000) for acquisition of lands in accordance with the general plan for the Chino Hills State Park, including the lands north of Highway 142.

(E) Ten million dollars ($10,000,000) for acquisition of land for additions to the Santa Susana Mountain Project to preserve historic and scenic sites, for hiking and equestrian trails, or for wildlife habitat and migration routes; provided that all acquisitions shall be located within the Rim of the Valley Corridor as defined in Section 33105.5 within the Simi Hills or Santa Susana Mountains in Los Angeles and Ventura Counties.

(F) Two million dollars ($2,000,000) for acquisitions within and adjacent to Big Basin Redwoods State Park and Castle Rock State Park in the Santa Cruz Mountains.

(G) Three million dollars ($3,000,000) for acquisition of lands in

Santa Clara County within and adjacent to Henry Coe State Park and for lands in Stanislaus County within the park.

(H) One million dollars ($1,000,000) for acquisition of natural lands for expansion of Pescadero Marsh Natural Preserve at Pescadero State Beach.

(I) Twenty-five million dollars ($25,000,000) for acquisition of land for an East Bay Shoreline State Park in the Counties of Alameda or Contra Costa, or both, generally in accordance with the East Bay Shoreline feasibility study.

(J) Four million dollars ($4,000,000) for acquisition of natural lands within and adjacent to Mt. Diablo State Park.

(K) Four million dollars ($4,000,000) for implementation of the Frank's Tract State Recreation Area General Plan with first priority given to the western portion, providing secondary wave protection benefits to adjacent islands.

(L) One million six hundred thousand dollars ($1,600,000) for acquisition of wetlands in and adjacent to the Delta Meadows Project.

(M) Two million dollars ($2,000,000) for acquisition of natural lands within and adjacent to Robert Louis Stevenson State Park.

(N) One million dollars ($1,000,000) for expansion of Anderson Marsh State Historic Park.

(O) Two million dollars ($2,000,000) for expansion of the South Yuba Project along the South Fork of the Yuba River to protect scenic vistas and riparian habitat and to provide for recreational trails.

(2) Fifty-four million seven hundred thousand dollars ($54,700,000) for acquisition, development, rehabilitation, or restoration of real property in the state park system in accordance with the following schedule:

(A) Four million seven hundred thousand dollars ($4,700,000) for acquisitions of real property inside the boundaries of existing projects or units or as additions to existing projects or units.

(B) Fourteen million dollars ($14,000,000) for development, rehabilitation, or restoration of coastal resources, other than coastal resources in or on San Francisco Bay, in accordance with the following schedule:

(i) Eight million dollars ($8,000,000) within San Diego County through Santa Barbara County.

(ii) Four million dollars ($4,000,000) within San Luis Obispo County through the City and County of San Francisco.

(iii) Two million dollars ($2,000,000) within Marin County through Del Norte County.

(C) Three million dollars ($3,000,000) for development, rehabilitation, or restoration of resources in or on San Francisco Bay.

(D) Eight million dollars ($8,000,000) for development, rehabilitation, or restoration of inland resources.

(E) Two million dollars ($2,000,000) for development, rehabilitation, or restoration at lakes, reservoirs, and waterways,

including the State Water Facilities, as defined in paragraphs (1) to (4), inclusive, of subdivision (d) of Section 12934 of the Water Code.

(F) One million dollars ($1,000,000) for the repair of storm damage and construction to prevent future storm damage.

(G) Three million dollars ($3,000,000) for planning, development, rehabilitation, restoration, or interpretive facilities in support of volunteer community action projects for the state park system.

(H) Ten million dollars ($10,000,000) for the increased stewardship of the public investment in the protection of the most critical natural and scenic features of the existing state park system.

(I) Five million dollars ($5,000,000) for rehabilitation and restoration of historical resources of the state park system.

(J) Three million dollars ($3,000,000) for development and rehabilitation of trails within the state park system or connecting units of the state park system.

(K) One million dollars ($1,000,000) for acquisition and development of trailheads for the Sno-Park program pursuant to Chapter 1.27 (commencing with Section 5091.01) of Division 5, including access to the Tahoe Rim Trail.

(3) One hundred eighty-five million four hundred thousand dollars ($185,400,000) to the Department of Parks and Recreation for grants to local agencies in accordance with the following schedule:

(A) Thirty million dollars ($30,000,000) for a grant to San Diego County in accordance with the following schedule:

(i) Ten million dollars ($10,000,000) for acquisition of natural lands in the San Dieguito River Valley.

(ii) Ten million dollars ($10,000,000) for acquisition of natural lands in the Tijuana River Valley.

(iii) Ten million dollars ($10,000,000) for acquisition of San Diego County resource conservation areas and urban canyons in accordance with the resource element of the County General Plan.

(B) Ten million dollars ($10,000,000) for a grant to the City of Laguna Beach for acquisition of, and for grants by the city to nonprofit organizations for acquisition of, natural lands within and contiguous to the Laguna Greenbelt as described in the Orange County General Plan.

(C) Four million dollars ($4,000,000) for a grant to the City of Irvine for acquisition of natural lands in the open space spine designated in the City of Irvine General Plan.

(D) Eleven million dollars ($11,000,000) for a grant to the City of Riverside in accordance with the following schedule:

(i) One million dollars ($1,000,000) for acquisition of natural lands in Sycamore Canyon Wilderness Park in accordance with the City of Riverside Specific Plan.

(ii) Ten million dollars ($10,000,000) for acquisition of land in and near the California Citrus State Historic Park located in the Arlington Heights area of Riverside.

(E) Two million four hundred thousand dollars ($2,400,000) for a grant to the County of Riverside in accordance with the following

schedule:

(i) Four hundred thousand dollars ($400,000) for acquisition of land to expand Hurkey Creek Park.

(ii) One million dollars ($1,000,000) for acquisition of land for trails in the Santa Ana River Corridor.

(iii) One million dollars ($1,000,000) for acquisition of land for trails suitable for equestrian and hiking uses in Riverside County, including the Temescal Canyon Trail.

(F) Twenty million dollars ($20,000,000) for a grant to the County of San Bernardino for acquisition of land primarily through the use of conservation easements within the Chino Agricultural Preserve.

(G) Twenty-five million dollars ($25,000,000) for a grant to Los Angeles County in accordance with the following schedule:

(i) Ten million dollars ($10,000,000) for acquisition or development of noncommercial visitor use and access facilities, and/or renovation of existing facilities at county, state, or city beaches operated by Los Angeles County.

(ii) Ten million dollars ($10,000,000) for acquisition of land for the Baldwin Hills State Recreation Area in accordance with the general plan for Baldwin Hills State Recreation Area.

(iii) Five million dollars ($5,000,000) for acquisition of natural lands to establish the Brea Heights Regional County Park.

(H) Seven million dollars ($7,000,000) for a grant to the County of Santa Barbara for acquisition of natural lands, wildlife habitat, wetlands, and agricultural land preservation, in incorporated and unincorporated areas, in accordance with the following schedule, except that expenditures for nonagricultural lands shall be limited to acquisition of lands in the Coastal Zone and shall be of sufficient size to be a major natural or low intensity community recreational resource:

(i) Four million eight hundred thousand dollars ($4,800,000) for nonagricultural lands located south of the ridge line of the Santa Ynez Mountain Range.

(ii) One million two hundred thousand dollars ($1,200,000) for nonagricultural lands north of the ridge line of the Santa Ynez Mountain Range.

(iii) One million dollars ($1,000,000) for the preservation of agricultural land in Santa Barbara County as identified for agricultural use in the Santa Barbara County Comprehensive Plan. These funds shall be used primarily for the acquisition of conservation easements.

(I) Four million dollars ($4,000,000) for a grant to the County of Monterey for acquisition of conservation easements in Monterey County on agricultural lands in the Salinas and Pajaro Valleys.

(J) Two million dollars ($2,000,000) for a grant to the Monterey Peninsula Regional Park District to expand the Garland Ranch Regional Park and for acquisition of natural lands and wildlife and riparian habitat in the Bixby Creek watershed.

(K) One million dollars ($1,000,000) for a grant to the County of

Santa Cruz for acquisition of conservation easements in Santa Cruz County on commercially viable agricultural lands in the Pajaro Valley and the coastal terrace north of the City of Santa Cruz, consistent with Section 2.3.1 of the Santa Cruz County General Plan.

(L) Fifteen million dollars ($15,000,000) for acquisition of those greenbelt lands known as the Pogonip property located in the City of Santa Cruz and the County of Santa Cruz, as defined in the 1979 City of Santa Cruz Greenbelt Ordinance. This acquisition shall be accomplished through grants to the following entities listed in order of priority: (1) the City of Santa Cruz and (2) a park and open-space district or a park and recreation district formed by the local electorate.

(M) Ten million dollars ($10,000,000) for a grant to the Midpeninsula Regional Open Space District for acquisition in accordance with the following schedule:

(i) One million dollars ($1,000,000) for acquisition of land between property managed by the district and Castle Rock State Park and Portola State Park.

(ii) Nine million dollars ($9,000,000) for expansion of Rancho San Antonio, Sierra Azul, El Sereno, El Corte de Madera Creek, and Windy Hill Open Space Preserves and for acquisition of Teague Hill Open Space Preserve.

(N) Thirteen million dollars ($13,000,000) for a grant to the East Bay Regional Park District in accordance with the following schedule:

(i) Ten million dollars ($10,000,000) for expenditure in accordance with the East Bay Regional Park District Master Plan, for expansion of Morgan Territory Regional Park and Briones Regional Park, acquisitions of natural lands along the Carquinez Straits and on Pleasanton Ridge, and shoreline access and trail acquisitions adjacent to the San Francisco Bay.

(ii) One million five hundred thousand dollars ($1,500,000) for acquisition of lands in the southern portion of Walpert Ridge in Hayward in central Alameda County.

(iii) One million five hundred thousand dollars ($1,500,000) for expansion of the Carquinez Shoreline Park in Port Costa.

(O) Five million dollars ($5,000,000) for a grant to the Marin County Open Space District for acquisition of natural lands on Loma Alta Mountain, Big Rock Ridge, and other wetlands, wildlife habitat, and natural lands in accordance with the Environmental Quality and Open Space Elements of the Marin Countywide Plan.

(P) Fifteen million dollars ($15,000,000) for a grant to the County of Marin for preservation of, and for grants by the county to nonprofit organizations for preservation of agricultural lands in the Marin County coastal zone and inland rural corridor, in accordance with the Marin County Agricultural Land Preservation Program. Funds provided in this subparagraph shall be used primarily to acquire agricultural conservation easements.

(Q) One million six hundred thousand dollars ($1,600,000) for a

grant to the City of Mill Valley for acquisition of natural lands on the Northridge and spurs of Mount Tamalpais, in accordance with the Open Space Elements in the Marin Countywide Plan or the Mill Valley General Plan, or both.

(R) One million dollars ($1,000,000) for a grant to the City of Vacaville for acquisition of natural lands along the ridgelands of the Vaca Mountains, Blue Ridge Mountains, and English Hills, including Old Rocky, for a ridgeline park in accordance with the Vacaville City General Plan.

(S) Two million dollars ($2,000,000) for a grant to the City of Davis for acquisition of, or for grants from the city to nonprofit organizations for acquisition of, wildlife and riparian habitat, wetlands, and potential wetlands within the 1987 Davis General Plan Study Area.

(T) Six million dollars ($6,000,000) for a grant to the County of Sacramento, to be shared by the county with the City of Sacramento on a per capita basis, for acquisition of parklands, wetlands, wildlife habitat, and related greenbelt areas in the county along Morrison Creek, Dry Creek, Snodgrass Slough, Cosumnes River, Laguna Creek, Sacramento River, and American River, consistent with the County Park System Master Plan.

(U) Four hundred thousand dollars ($400,000) for a grant to Lake County for acquisition of a county park that provides wildlife habitat, riparian areas, and recreational benefits near Middletown.

(c) Eighty-one million three hundred thousand dollars ($81,300,000) to the Wildlife Conservation Board for programs involving the acquisition of land pursuant to the Wildlife Conservation Law of 1947, subject to Section 2625 of the Fish and Game Code and consistent with the purposes of this division, and for grants to local agencies, including an amount not to exceed one million two hundred nineteen thousand five hundred dollars ($1,219,500) for state administrative costs, in accordance with the following schedule:

(1) Thirty-eight million dollars ($38,000,000) for projects involving the acquisition, preservation, protection, restoration, enhancement, or development of wetlands for wildfowl and other wildlife habitat, in accordance with the following schedule:

(A) Thirteen million dollars ($13,000,000) for acquisition or restoration of wetlands within or adjacent to (1) the areas subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission or (2) the boundaries of historic San Francisco Bay wetlands as designated in the 1985 United States Fish and Wildlife Service National Wetland Inventory Maps for the San Francisco Bay Area or in subsequent updates with not less than eight million dollars ($8,000,000) for acquisition or restoration of wetlands south of the San Mateo Bridge.

(B) Twenty-five million dollars ($25,000,000) for wetlands outside the coastal zone as defined in Section 30103 and other than within the area defined in subparagraph (A).

(2) Two million dollars ($2,000,000) for acquisition of monarch butterfly habitat.

(3) Ten million dollars ($10,000,000) for acquisition of riparian habitat that drains into the Pacific Ocean within the Counties of San Diego, Orange, Los Angeles, and Ventura.

(4) Four million dollars ($4,000,000) for acquisition of land containing Tecate Cypress forest and associated rare species in Coal Canyon in Orange County.

(5) Five million dollars ($5,000,000) for acquisition of wildlife habitat and natural lands along the San Joaquin River between Friant Dam and Highway 99 in the Counties of Fresno and Madera.

(6) Three hundred thousand dollars ($300,000) for acquisition of valley oak riparian forest and wetlands along the Mokelumne River near Galt in San Joaquin County.

(7) Two million dollars ($2,000,000) for acquisition of wetlands, riparian habitat, vernal pools, and immediately adjacent natural uplands in the vicinity of the Stanislaus, Tuolumne, Merced, and San Joaquin Rivers and their tributaries in Stanislaus, San Joaquin, and Merced Counties for open-space, habitat protection, or riparian restoration.

(8) Four million dollars ($4,000,000) for acquisition of riparian habitat along the Sacramento River from Shasta Dam to Collinsville.

(9) One million dollars ($1,000,000) for acquisition of riparian habitat along the Feather River from Oroville to the mouth of the river.

(10) Four million dollars ($4,000,000) for acquisition of inland, San Pablo Bay, and coastal wetlands in Sonoma County, including the Laguna de Santa Rosa.

(11) Two million dollars ($2,000,000) for acquisition within the Napa Marsh and associated wetlands.

(12) One million dollars ($1,000,000) for acquisition of wildlife habitat in northern Napa County as identified by the Department of Fish and Game.

(13) Four million dollars ($4,000,000) for acquisition of sensitive riparian areas, meadows, critical wildlife habitat, and recreation lands in the Hope Valley area just south of Lake Tahoe in Alpine County. Portions of these lands which could provide compatible recreational opportunities may be managed by the Department of Parks and Recreation under an interagency agreement with the Department of Fish and Game.

(14) Four million dollars ($4,000,000) for acquisition of old growth redwoods, mixed forest, and wildlife habitat near the town of Whitethorn in the Mattole River watershed in Humboldt and Mendocino Counties.

(d) Fifty-eight million dollars ($58,000,000) to the State Coastal Conservancy pursuant to Division 21 (commencing with Section 31000), consistent with the purposes of this division, for acquisition, enhancement, or restoration of natural lands and development of public accessways in coastal areas and the San Francisco Bay region;

and for preservation of agriculture in coastal areas, and for grants to local agencies and nonprofit organizations, and for related state administrative costs, in accordance with the following schedule:

(1) Thirty-four million dollars ($34,000,000) to the State Coastal Conservancy for acquisition, enhancement, or restoration of natural lands, and development of public accessways in coastal areas and the San Francisco Bay region; and for preservation of agriculture in coastal areas, pursuant to Division 21 (commencing with Section 31000). These funds include the five million eight hundred fifty thousand dollars ($5,850,000) advanced by the Coastal Conservancy to the Santa Monica Mountains Conservancy for the Circle X acquisition in the Santa Monica Mountains. Up to one million five hundred thousand dollars ($1,500,000) of the total funds available pursuant to this paragraph shall be spent on expansion of the Bolsa Chica Linear Park in Orange County or for disbursement to the City of Huntington Beach or other appropriate agencies for this purpose, or for restoration, enhancement, or expansion of the Bolsa Chica wetlands that is not otherwise required for mitigation, or both. Up to four million dollars ($4,000,000) of the total funds available pursuant to this paragraph shall be spent for the purposes of paragraph (2) if the funds allocated in paragraph (2) prove to be insufficient to achieve the purposes of that paragraph.

(2) Ten million dollars ($10,000,000) for acquisition of natural lands to preserve coastal resources in the coastal dunes and wetlands from Mussel Point to Grover City west of Highway 1 in San Luis Obispo and Santa Barbara Counties. Up to seven hundred fifty thousand dollars ($750,000) may be spent for dunes restoration and public access consistent with coastal resources preservation.

(3) One million five hundred thousand dollars ($1,500,000) for acquisition of coastal natural lands and wetlands in Monterey County between Monterey Wharf #2 and the Salinas River.

(4) Eight million dollars ($8,000,000) for acquisition of, and for grants to public agencies or nonprofit organizations for acquisition of, coastal lands within San Mateo County that meet three or more of the following criteria, with preference given to lands meeting the largest number of criteria: (1) ocean frontage, (2) state or county scenic corridor, (3) designated in the County General Plan as agriculture, (4) sensitive habitat areas or wetlands, (5) close proximity to urban areas, or (6) adjacent to other permanently dedicated public or private natural lands. These funds shall not be used for urban waterfronts or for lot consolidation projects as defined in Chapters 5 (commencing with Section 31200) and 7 (commencing with Section 31300) of Division 21.

(5) Four million dollars ($4,000,000) for acquisitions in Sonoma County of coastal natural lands and coastal wetlands south of Stewart Point, and for acquisition of San Pablo Bay wetlands and natural lands.

(6) Five hundred thousand dollars ($500,000) for acquisition of, and for grants to nonprofit organizations for acquisition of, land

containing old growth Douglas fir on Mill Creek, a tributary of the Mattole River in Humboldt County, and for public access to the lands acquired.

(e) Eighty-two million dollars ($82,000,000) to the following agencies, and for grants to local agencies and nonprofit organizations, including state administrative costs, for the following purposes:

(1) Seventeen million dollars ($17,000,000) to the Department of Fish and Game, including an amount not to exceed two hundred fifty-five thousand dollars ($255,000) for state administrative costs, in accordance with the following schedule:

(A) Ten million dollars ($10,000,000) for restoration and enhancement of salmon streams in accordance with the recommendations of the Commercial Salmon Stamp Advisory Committee and the Advisory Committee on Salmon and Steelhead Trout.

(B) Six million dollars ($6,000,000) for restoration and enhancement of wild trout and native steelhead habitat; for capital outlay to design, develop, and construct an experimental wild trout and native steelhead propagation facility; for acquisition of land important for the perpetuation of wild trout and native steelhead; and to provide public access to wild trout and native steelhead waters.

(C) One million dollars ($1,000,000) for marine patrol boats and other equipment for enforcement of fish and game regulations to protect fish, marine birds, and marine mammals from Point Conception to Fort Bragg.

(2) Five million dollars ($5,000,000) to the Department of Forestry for urban forestry programs, and for related state administrative costs not to exceed two hundred fifty thousand dollars ($250,000), in accordance with Section 4799.12.

(3) Five million dollars ($5,000,000) to the Department of Water Resources for grants to counties, cities, cities and counties, districts, and nonprofit organizations for the acquisition or restoration of natural lands which contain urban streams, creeks, and riparian areas, and for related state administrative costs not to exceed two hundred fifty thousand dollars ($250,000), in accordance with Section 7048 of the Water Code.

(4) Thirty million dollars ($30,000,000) to the Santa Monica Mountains Conservancy for land acquisition and for grants to nonprofit organizations for land acquisition in the Santa Monica Mountains, and for related state administrative costs, pursuant to Division 23 (commencing with Section 33000) and consistent with the purposes of this division. Five million dollars ($5,000,000) of this amount shall be for grants to nonprofit organizations pursuant to Section 33204.2.

(5) Twenty-five million dollars ($25,000,000) to the County of Monterey to be transferred directly to the 1988 Bond Act Account of the Big Sur Preservation Fund of Monterey County to support

implementation of "critical viewshed" policies of the county's Big Sur Coast Land Use Plan which was certified by the California Coastal Commission on April 9, 1986, as a component of the Big Sur Local Coastal Program.

The intent of this paragraph is to ensure that the exceptional vistas seen from Scenic Highway One along the Big Sur Coast in Monterey County will be preserved in a manner that ensures the continuation of existing state and local jurisdiction over the Big Sur area.

SEC. 2. The unexpended balances available to the Wildlife Conservation Board pursuant to paragraph (1) of subdivision (c) of Section 5907 of the Public Resources Code are hereby appropriated to the board from the California Wildlife, Coastal, and Park Land Conservation Fund of 1988 for expenditure, without regard to fiscal year, for the purposes specified in paragraph (1) of subdivision (c) of Section 5907 of the Public Resources Code.

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 a full and appropriate expenditure of bond funds authorized pursuant to the California Wildlife, Coastal, and Park Land Conservation Act, it is necessary that this act take effect immediately.

CHAPTER 1252

An act to amend Sections 10790, 11008.19, 11155.2, 11280, 11310, 11322.2, 11325, 11325.2, 11327.5, 11332, 11332.5, 11333, 11333.7, 11521, 12300, and 12301.6 of the Welfare and Institutions Code, relating to public social services, and making an appropriation therefor.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 10790 of the Welfare and Institutions Code is amended to read:

10790. (a) The director, in consultation with the County Welfare Directors Association and at least one advocate for welfare recipients, shall establish, within the Aid to Families with Dependent Children (AFDC) program (Chapter 2 (commencing with Section 11200) of Part 3), and the Food Stamp Program (Chapter 10 (commencing with Section 18900) of Part 6), the Consolidated Public Assistance Eligibility Determination Demonstration Project.

(b) (1) The director shall, by formal order, waive the enforcement of those regulations and standards necessary to implement the project with federal approval, in order to implement

the demonstration project.

(2) The order establishing the waiver authorized by paragraph (1) shall meet all of the following requirements:

(A) It shall provide alternative methods and procedures of eligibility administration.

(B) It shall not conflict with the basic purposes or coverage provided by law.

(C) The director shall determine, based on estimates, the impact of the proposed changes on AFDC and food stamp recipients. The order shall be implemented only if no more than 5 percent of the recipients are expected to experience a net benefit reduction.

(D) Applications for, and restorations of, aid shall be processed in the shorter of the time periods required for the AFDC and Food Stamp programs, when differences exist between the two programs.

(E) It shall not be general in scope and shall apply only to the project authorized by this section.

(3) The order establishing the waiver authorized by paragraph (1) shall take effect only if the appropriate federal agencies have agreed to approve the demonstration project and to waive those federal requirements that are necessary for waiver under the project.

(c) Applicants and recipients under this chapter shall be entitled to the same rights and fair hearings and appeals as those to which they would otherwise be entitled under the AFDC program (Chapter 2 (commencing with Section 11200) of Part 3) and the Food Stamp Program (Chapter 10 (commencing with Section 18900) of Part 6).

(d) The director shall include in the request for any waivers necessary for the implementation of this demonstration project the declaration that if any of the specific elements, pursuant to Section 10791, are deemed unwaivable or are not granted, the other elements may be considered independently and waived as permitted under federal law.

(e) The director may exclude from the request for waivers any specific element, pursuant to subparagraph (D) of paragraph (2) of subdivision (b) of this section or Section 10791, determined to be not cost-effective due to significant General Fund costs. The department shall report to the Legislature within one year on the reasons for such a determination.

SEC. 2. Section 11008.19 of the Welfare and Institutions Code is amended 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 that 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 the 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, in the following order of priority:

(i) AFDC families in approved education and training programs, except those receiving services under Article 3.2 (commencing with Section 11320) of Chapter 2.

(ii) AFDC applicants or recipients who choose the Alternative Assistance Program pursuant to Section 11280.

(iii) All other AFDC recipients.

(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 (Chapter 118 of the Statutes 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 that 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 annual 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. 3. Section 11155.2 of the Welfare and Institutions Code is amended to read:

11155.2. (a) In addition to the personal property permitted by this part, recipients of aid to families with dependent children shall be permitted to retain savings and interest thereon for specified purposes up to a maximum of five thousand dollars ($5,000) per family. Interest earned from these savings and deposited into a restricted account shall be considered exempt as income for purposes of determining AFDC eligibility and grant amounts if the interest is retained in the account. If the interest is not deposited by the financial institution into the account, the interest shall be treated as a nonqualifying withdrawal of funds from the account as specified in subdivision (b). This section shall not apply to applicants. Funds may be used by the family for postsecondary education or training for a child or children, for starting a business, or for the purchase of a home. Recipients who wish to retain savings for these purposes shall enter into a written agreement with the county to establish a

separate account with a financial institution, with the account to be used solely for the purpose of accumulating funds for later withdrawal for a qualifying expenditure. A qualifying expenditure shall be defined by department regulations and shall be verified by the recipient. The recipient shall agree to provide periodic verification of account activity, as required by department regulations. The agreement shall notify the recipient of the penalty for nonqualifying withdrawal of funds.

(b) Any nonqualifying withdrawal of funds from the account shall result in a calculation of a period of ineligibility for all persons in the assistance unit, to be determined by dividing the balance in the account immediately prior to the withdrawal by the minimum basic standard of adequate care for the members of the assistance unit, as set forth in Section 11452. The resulting whole number shall be the number of months of ineligibility. The period of ineligibility may be reduced when the minimum basic standard of adequate care of the assistance unit, including special needs, increases.

(c) This section shall be implemented on the first day of the month following the month in which the director executes a declaration that shall be retained by the director, stating that federal approval for implementation of this section has been obtained, and specifying the duration of that approval, and shall continue to be implemented only until the end of the period of federal approval.

SEC. 4. Section 11280 of the Welfare and Institutions Code is amended to read:

11280. (a) The Alternative Assistance Program is hereby created.

(b) Recipients of, and applicants eligible for, aid under this chapter, who have earned income, shall be eligible for the Alternative Assistance Program if they decline or refuse a cash grant. Alternative assistance participants are eligible to receive child care assistance and Medi-Cal benefits. For the purposes of Medi-Cal eligibility, alternative assistance participants shall be considered to be AFDC recipients.

(c) Recipients of, and applicants for, aid under this chapter shall be notified of the availability of alternative assistance under this section at the time of application or redetermination of eligibility. The notification shall specify that the family would be foregoing a cash grant, and any person choosing alternative assistance under this section shall sign a statement stating that he or she understands this choice.

(d) To the extent permitted by federal law, the child care assistance shall be paid for at the actual cost or the reimbursement maximum based on the regional market rate. The regional market rate means care costing no more than the 75th percentile of the cost of care for that region.

(e) It is the intent of the Legislature that, to the extent feasible, participants in the Alternative Assistance Program shall receive child care services through existing child care resources including the

At-Risk Child Care program as specified in Section 8352 of the Education Code, funds made available under Section 11008.19 and the federal Child Care and Development Block Grant of 1990, established by the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508).

(f) A family whose eligibility for this program terminates due to employment or increased earnings shall, to the extent federal financial participation is available, be eligible for transitional child care benefits established under Article 8 (commencing with Section 11500) and transitional Medi-Cal benefits provided for under Section 14005.8.

(g) This section shall be implemented only if the director executes a declaration, that shall be retained by the director, stating that federal approval for use of funds under Part A (commencing with Section 601) of Subchapter IV of Chapter 7 of Title 42 of the United States Code for the program and that federal approval for implementation of this section has been obtained, and specifying the duration of that approval.

SEC. 5. Section 11310 of the Welfare and Institutions Code is amended to read:

11310. (a) Except as provided in subdivision (b), every individual, as a condition for eligibility for aid under this chapter, shall register for manpower services, training, and employment.

(b) The following individuals are not required to register:

(1) An individual under 16 years, except as provided in subdivision (b) of Section 11331.5, during that time the provision is operative.

(2) Except as provided in subdivision (b) of Section 11331.5, during that time the provision is operative, a child attending an elementary, secondary, vocational, or technical school on a full-time basis. A person who is 16 or 17 years of age, or a person described in subdivision (d) who loses this exemption, shall not requalify for the exemption by attending school as a required activity under the Greater Avenues for Independence program. For purposes of this subdivision, school does not include postsecondary education.

(3) An individual who is ill, incapacitated, or of advanced age.

(4) Except as provided in subdivision (b) of Section 11331.5, during that time the provision is operative, an individual so remote from a program activity that his or her effective participation is precluded.

(5) Except as provided in subdivision (b) of Section 11331.5, during that time the provision is operative, an individual whose presence in the home is required because of illness or incapacity of another member of the household.

(6) Except as provided in subdivision (b) of Section 11331.5, during that time the provision is operative, a parent or other relative who meets the criteria described in subparagraph (A) or (B).

(A) Has primary responsibility for personally providing care to a child under the age of three years. An individual may be exempt only

once for this reason during a period of continuous eligibility. An individual who has primary responsibility for personally providing care to a child under three years of age who has previously received this exemption shall be exempt for a period of four months, upon the birth or adoption of a child. An individual meeting this criterion who volunteers to register may not be required to participate unless it is guaranteed that: (1) child care will be provided and (2) participation will not be required for more than 20 hours per week.

(B) Has primary responsibility for personally providing care to a child aged three to five years, inclusive, unless it is guaranteed that: (1) child care will be provided and (2) participation will not be required for more than 20 hours per week.

(C) In a family eligible for Aid to Families with Dependent Children payments due to the unemployment of the principal wage earner, the exemption criteria contained in subparagraph (A) or (B) shall be applied to only one parent.

(7) Except as provided in subdivision (b) of Section 11331.5, during that time the provision is operative, a woman who is pregnant and it has been medically verified that the anticipated delivery date is the month of required participation or is within the six-month period immediately following the month of required participation.

(8) Except as provided in subdivision (b) of Section 11331.5, during that time the provision is operative, an individual who is working not less than 30 hours per week in unsubsidized employment which is expected to last a minimum of 30 days. This exemption continues to apply if there is a temporary break in full-time employment which is expected to last no longer than 10 working days.

(9) An individual who is a full-time volunteer serving under the Volunteers in Service to America (VISTA) program, pursuant to Title 1 of the federal Domestic Volunteer Service Act of 1973 (P.L. 93-113).

(c) Any individual not required to register may choose to register voluntarily for manpower services, training, and employment, and may withdraw that registration at any time without loss of eligibility for aid under this chapter, if his or her status has not changed in a way that would require registration.

(d) Notwithstanding subdivision (a), a custodial parent who is under 20 years of age and who has not earned a high school diploma or its equivalent, and who is not exempt or whose only basis for exemption is subparagraph (A) of paragraph (6) of subdivision (b), shall be required to register solely for the purpose of earning a high school diploma or its equivalent. During that time that Article 3.5 (commencing with Section 11331) is operative, this subdivision shall only apply to a custodial parent who is 19 years of age.

(1) Notwithstanding subparagraph (B) of paragraph (6) of subdivision (b), full-time participation shall be required of the parent.

(2) Paragraph (7) of subdivision (c) of Section 11325.2 shall apply

to a custodial parent who is 18 or 19 years of age who is required to participate under this article. Any referral pursuant to a progress evaluation conference that results in an assignment to any training or work activity shall be subject to subparagraph (B) of paragraph (6) of subdivision (b).

(3) Custodial mothers under 20 years of age who have not earned a high school diploma or its equivalent shall be exempted due to incapacity as provided in paragraph (3) of subdivision (b) after the birth of the child for a period of postpartum recovery as prescribed by a physician.

(e) Notwithstanding subdivision (d), the county may determine at appraisal that participation in education activities for the purpose of earning a high school diploma or equivalent is inappropriate for an 18 or 19 year old custodial parent only if that parent is already in an educational or vocational training program that is approvable as a self-initiated program as specified in paragraph (5) of subdivision (c) of Section 11325.2. If that determination is made, the parent shall be allowed to continue participation in the self-initiated program subject to paragraph (5) of subdivision (c) of Section 11325.2. During that time that Article 3.5 (commencing with Section 11331) is operative, this subdivision shall only apply to a custodial parent who is 19 years of age.

SEC. 6. Section 11322.2 of the Welfare and Institutions Code is amended to read:

11322.2. (a) Counties shall continually monitor their program expenditures throughout the fiscal year. If a county determines that its anticipated expenditures will exceed the amount of that year's allocations as a result of an unexpected event, including caseload increases, court cases, or significant justifiable increases in component costs, the county shall immediately notify the department and submit a revised plan.

(b) Counties shall achieve cost reductions pursuant to a revised plan required by subdivision (a), primarily by reducing the number of participants in the program in a manner consistent with Section 11322.4. Counties may make program efficiencies to the extent those reductions do not threaten the guarantee of services as required by subdivision (b) of Section 11321.2. In its review, the department shall ensure that any efficiencies do not create an effective barrier to participation on the part of current or future clients.

(c) (1) 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.

(2) Notwithstanding paragraph (1), once the county has met the requirements of subdivision (d), the state shall pay 100 percent of the actual nonfederal expenditures above that requirement, up to the amount of the county's GAIN allocation.

(d) A county shall have no share of any nonfederal expenditures above the actual amount of nonfederal expenditures for this program

in the 1992–93 fiscal year, provided that the county has maintained the level of county matching funds it provided for this program in the 1992–93 fiscal year.

SEC. 7. Section 11325 of the Welfare and Institutions Code is amended to read:

11325. (a) Unless otherwise exempt, the following persons shall not be required to participate in program components, beyond registration, until the county welfare department determines that the situation not requiring participation no longer exists:

(1) (A) Any person who, at the time of initial appraisal, is enrolled on a full-time basis in a program leading to a degree or certificate. If the individual is attending less than full time at the time of initial appraisal, but he or she agrees to full-time attendance as soon as possible, the individual shall be considered to be attending on a full-time basis.

(B) Any person subject to this subdivision shall participate on a full-time basis and make satisfactory progress in that program according to the standards of the provider.

(C) A person may participate on a basis of less than full time, but not less than a half-time basis, if full-time participation is not feasible due to good cause, as defined in Section 11328.

(2) A person who is so seriously dependent upon alcohol or drugs that work or training is precluded.

(3) A person who is having an emotional or mental problem that precludes participation.

(4) A person who is involved in legal difficulties, such as court-mandated appearances that preclude participation.

(5) A person who does not have the legal right to work in the United States.

(6) A person who has a severe family crisis.

(7) A person who is in good standing in a union that controls referrals and hiring in the occupation.

(8) A person who is temporarily laid off from a job with a definite call-back date.

(9) A person who is employed for 15 or more hours per week.

(10) A person, or a family member, has a medically verified illness.

(11) A woman in the first trimester of pregnancy.

(12) A person who lacks the necessary child care for children described in subdivision (a) of Section 11323.2 or for children described in that subdivision but who are not members of the assistance unit, or a person who lacks necessary transportation.

(b) Participation of individuals who are attending a self-initiated program upon entering GAIN may be deferred in order to permit completion of the program semester, quarter, or increment of not more than six months.

(c) The department shall promulgate regulations that specify when the county welfare department shall determine whether an individual meets any of the criteria listed in subdivisions (a) and (b).

(d) This section shall not apply to individuals subject to Article 3.5

(commencing with Section 11331), during that time that article is operative.

(e) For all other registrants, the county shall develop a preliminary employability plan. The plan shall, at a minimum, take into account the registrant's employment experience and his or her employment goals.

SEC. 8. Section 11325.2 of the Welfare and Institutions Code is amended to read:

11325.2. (a) At the time an individual registers pursuant to this article, including persons who volunteer to participate, or with respect to any individual described in Section 11325, at the time the situation which permits nonparticipation no longer exists, every individual shall enter into a written basic contract with the county welfare department.

(b) The county shall offer the participant three days in which to consider and evaluate the proposed terms of the contract, or any subsequent amendments to the contract.

(c) The contract shall contain all of the following:

(1) The contract shall be written in clear and understandable language, and have a simple and easy-to-read format. The contract shall contain at least all of the following general information:

(A) A general description of the program provided for in this article.

(B) A detailed description of the services, including supportive services such as child care and transportation, available to program participants and the hours the participant is required to attend training, education, or work experience.

(C) A description of the rights, duties and responsibilities of program participants, including a list of the exemptions from required participation under this article and the consequences of a refusal to participate in program components.

(2) In the case of any participant who has not been employed within two years from the date of registration, except for a participant described in paragraph (4), the contract shall provide that the participant shall participate in job club for a period of three weeks, as defined in Section 11322.6. Participation pursuant to this paragraph may be delayed in accordance with paragraph (5) or (6).

(3) In the case of any participant who has been employed within two years of the date of registration, except for a participant described in paragraph (4), the participant shall have the option to participate in a three-week period of job club, as defined in Section 11322.6, or in a three-week period of supervised job search, as defined in that section. At the discretion of the employment and training counselor and with the approval of the first or second line supervisor, the job search period may be shortened when it is determined that all reasonable job search efforts have been exhausted. The participant shall choose one of the options upon signing the contract. Participation pursuant to this paragraph may be delayed in accordance with paragraph (5) or (6).

(4) Notwithstanding paragraph (2) and (3), in the case of any participant who has been a recipient of aid under this chapter more than twice within three years from the date of registration, the contract shall provide for immediate referral to assessment pursuant to Section 11325.4. Participation pursuant to this paragraph may be delayed in accordance with paragraph (5) or (6).

(5) (A) Any individual who is enrolled or attending in good standing in a self-initiated vocational training program or an educational program which will likely lead to unsubsidized employment in an occupation in demand may continue to participate in that program until completion of the program for a period not to exceed two years from the date the basic contract reflecting the self-initiated program is signed. The individual's program shall be scheduled to be completed within the two-year period. The two-year period may be extended, one time only, for a period of not more than six months, on an individual basis, for persons who are unable to complete a self-initiated program due to any of the following circumstances and who have a reasonable expectation to complete that program within the six-month period:

(i) The individual's basic skills requirements required more class time than was estimated at the commencement of that individual's self-initiated program.

(ii) The school or college did not offer required classes in a sequence that permitted completion of the self-initiated program within the prescribed time period.

(iii) The individual had a personal or family crisis that resulted in the inability of that individual to complete his or her self-initiated program without an additional period of attendance, not to exceed six months.

(B) In order to continue in a self-initiated training or education program, a GAIN applicant or recipient shall need the education or training in order to become employable in unsubsidized employment. Any individual who meets either of the following criteria shall be deemed to be employable:

(i) Possesses a baccalaureate degree.

(ii) Has an education or job skills necessary to obtain unsubsidized employment in an occupation which is in demand that will provide the individual with an income equal to two times the federal poverty line for the appropriate family size. A county may waive this requirement if an individual is able to demonstrate that, due to compelling personal circumstances, employment in the previous occupation is not realistic, including, but not limited to, a work-related disability, inability to obtain required union membership, or hours of employment that cause a severe hardship on the recipient's family.

(C) (i) Supportive services reimbursement shall be limited to child care and transportation for any participant in a self-initiated training or education program approved under this subdivision. This reimbursement shall be provided if no other source of funding for

those costs is available.

(ii) Any offset to supportive services payments shall be made in accordance with subdivision (d) of Section 11323.4.

(D) (i) In order to continue in a self-initiated training or education program, a GAIN participant shall be attending at least full time and shall, make satisfactory progress, as periodically measured according to the standards of the program in which the individual is enrolled. If the individual is attending less than full time upon entry into GAIN but she or he agrees to full-time attendance as soon as possible, the individual shall be considered to be attending on a full-time basis.

(ii) A GAIN participant may participate on less than a full-time basis, but not less than on a half-time basis, if full-time participation is not feasible due to good cause, as defined in Section 11328.

(E) Participation in the self-initiated vocational or educational training program shall be reflected in the basic contract. The basic contract shall provide that whenever an individual ceases to participate in, or refuses to attend regularly, or does not maintain satisfactory progress in the self-initiated program, the individual shall participate in this program in accordance with paragraph (2), (3), or (4), whichever is applicable.

(F) Any person whose previously approved self-initiated education or training program is interrupted for reasons preventing participation may resume participation in the same program if the participant maintained good standing in the program while participating. The county shall adjust the completion date of the program accounting for the time of absence to allow the participant a cumulative total of two years participation for completion of the program. In circumstances where the break in participation was for a period of more than one year, the participant may resume the program if the county determines the previously approved self-initiated education or training program meets all other criteria of this section at the time it is resumed.

(6) For those participants who lack basic literacy or mathematics skills, a high school diploma or its equivalent, or English language skills, the basic contract shall provide for either remedial education, instruction in order to obtain a general educational development certificate, or instruction in English as a second language. These participants shall be referred to appropriate service providers, including the educational programs operated by school districts or county offices of education that have contracted with the Superintendent of Public Instruction to provide services to participants pursuant to Section 33117.5 of the Education Code. The basic contract shall provide that when an individual, to whom this paragraph applies, fails, refuses, or ceases to comply with program requirements, without good cause, as specified in Section 11328, and conciliation efforts as specified in Section 11327.4 have failed to resolve the dispute, the individual shall be subject to the sanction provisions of Section 11327.5.

(7) An individual to whom paragraph (6) applies who is either determined at appraisal or by the education provider as unable to benefit from basic educational services due to a learning or medical problem, or is participating in the instruction and is determined not to be making satisfactory progress, shall be referred to a progress evaluation for a determination of whether the individual has the ability to successfully complete the assigned component. As part of the evaluation, counties may require an individual to take tests to obtain additional information regarding the student's learning abilities. This evaluation may result in referral, as appropriate, to any of the following components: (A) rereferral to the person's previous activity, (B) existing special programs that meet specific needs of the individual, (C) job club, if the county determines the individual has the skills needed to find a job in the local labor market, (D) assessment followed by the appropriate postassessment activity, or (E) rehabilitation assessment and subsequent training. The participant shall be involved in the decisions made during the progress evaluation and shall have appeal rights consistent with those accorded to individuals during an assessment made pursuant to subdivision (b) of Section 11325.4.

It is the intent of the Legislature that the progress evaluations provide a method for determining the appropriate services needed by an individual for long-term success in the job market. An individual who is determined to need long periods of classroom instruction in order to achieve basic skills should not be referred to a progress evaluation if he or she is making steady, satisfactory progress in attaining the basic skill goal.

(8) (A) In the case of an individual who is an applicant for aid under this chapter and who is required to register pursuant to this article, mandated activities shall be limited to those necessary to enter into a written basic contract and to participation in job search.

(B) A participant described in subparagraph (A) who is assessed as needing additional education and who chooses education in preference to job search as his or her first program component shall not be required to participate in job search until the county has approved the registrant for aid pursuant to this chapter.

(9) Notwithstanding paragraphs (2) to (6), inclusive, the department shall adopt regulations or policies, as required by federal law, that specify the participation requirements with which one parent in a family eligible for aid under this chapter due to the unemployment of the principal wage earner is required to comply.

(d) This section shall not apply to individuals subject to Article 3.5 (commencing with Section 11331) during the time that article is operative.

SEC. 9. Section 11327.5 of the Welfare and Institutions Code is amended to read:

11327.5. (a) Sanctions shall be imposed in accordance with subdivision (b) or (c), as appropriate, if an individual has failed or refused to comply with program requirements without good cause

and conciliation efforts, as described in Section 11327.4, have failed.

(b) The sanctions provided for in subdivisions (c) and (d) shall not apply to an individual who is exempt from the requirements of this article but is voluntarily participating in the program. If such an individual is a member of a group listed in paragraphs (1) to (5), inclusive, of subdivision (d) of Section 11322.4, and engages in conduct that would bring about the actions provided for in subdivisions (c) and (d), except for his or her status as a voluntary program participant, the individual shall not be given priority so long as other individuals are actively seeking to participate. In the case of any other voluntary program participant who engages in conduct that would bring about the actions provided for in subdivisions (c) and (d), except for his or her status as a voluntary program participant, the individual shall be precluded from participating in the program for a period of six months.

(c) Financial sanctions for failing or refusing to comply with program requirements without good cause shall cause a reduction in the family's grant by removing the noncomplying family member from the assistance unit for a period of time specified in subdivision (d).

(1) For families that qualify for aid due to unemployment of the family's primary wage earner, the sanctioned parent shall be removed from the assistance unit. Unless the spouse or the family's second parent meets the provisions of subparagraph (A) of paragraph (2), if the sanctioned parent's spouse or the family's second parent is not participating in the program, both the sanctioned parent and the spouse or second parent shall be removed from the assistance unit. The county shall notify the spouse of the noncomplying participant or second parent in writing at the commencement of conciliation of his or her own opportunity to participate and the impact on sanctions of that participation. Notwithstanding Section 11322.4, the sanctioned parent's spouse or the family's second parent shall be provided the opportunity to participate.

(2) (A) Except as provided in subparagraph (B), exemption criteria specified in Section 11310, deferral criteria specified in Section 11325, conciliation specified in Section 11327.4, and good cause criteria specified in Section 11328 shall apply to the sanctioned parent's spouse or the family's second parent.

(B) Exemption criteria specified in paragraphs (5) and (6) of subdivision (b) of Section 11310 do not apply to a spouse or second parent who is participating to avoid the sanction of the noncomplying parent.

(C) If the sanctioned parent's spouse or the family's second parent chooses to participate to avoid the noncomplying parent's sanction, subsequently fails or refuses to participate without good cause, and does not conciliate, he or she shall be removed from the assistance unit for a period of time specified in subdivision (d).

(D) If the sanctioned parent's spouse or the family's second

parent is under his or her own sanction at the time of the first parent's sanction, the spouse or second parent shall not be provided the opportunity to avoid the first parent's sanction until the spouse or second parent's sanction is completed.

(3) For families that qualify due to the absence or incapacity of a parent, only the noncomplying parent shall be removed from the assistance unit.

(4) If the noncomplying individual is the only dependent child in the family, his or her needs shall not be taken into account in determining the family's need for assistance and the amount of the assistance payment.

(5) If the noncomplying individual is one of several dependent children in the family, his or her needs shall not be taken into account in determining the family's need for assistance and the amount of the assistance payment.

(d) The length of time that financial sanctions shall reduce a family's grant shall increase in the following manner:

(1) The first instance of noncompliance without good cause shall result in a financial sanction. This sanction shall terminate at any point if the noncomplying participant reaches an agreement with the county welfare department in an amended contract or agrees to participate and performs the activity he or she previously refused to perform.

(2) The second instance of noncompliance without good cause shall result in a financial sanction for three months or until the noncomplying participant reaches an agreement with the county welfare department or agrees to participate and performs the activity he or she previously refused to perform, whichever is longer.

(3) The third and each subsequent instance of noncompliance without good cause shall result in a financial sanction for six months or until the noncomplying participant reaches an agreement with the county welfare department or agrees to participate and performs the activity he or she previously refused to perform, whichever is longer.

(e) Sanctions shall become effective on the first day of the first payment-month that the sanctioned individual's needs are removed from aid under this chapter.

(f) In the event this section conflicts with federal law, the department shall adopt regulations to conform to federal law.

SEC. 10. Section 11332 of the Welfare and Institutions Code is amended to read:

11332. (a) Participation by a teenage parent shall be deferred if the county determines that any of the services an individual is assessed as needing pursuant to Section 11331.7 are not available.

(b) Participation by a teenage parent shall be deferred so long as the individual has a special need that directly affects his or her ability to attend school or be successful in earning a high school diploma and the special need cannot be addressed.

(c) Participation by a teenage parent shall be deferred after the

birth of a child for a period of postpartum recovery as prescribed by a physician.

SEC. 11. Section 11332.5 of the Welfare and Institutions Code is amended to read:

11332.5. (a) Counties shall arrange for the provision of case management services and counseling to teenage parents to assist their participation in the Cal-Learn Program. Case management services shall include all of the following:

(1) Designing a realistic plan that assists in maximizing the ability of each client to graduate from high school or its equivalent and includes referrals to services that:

(A) Reduce the incidence of maternal and child morbidity and mortality, including the incidence of low birthweight infants.

(B) Enhance the teen's parenting skills.

(C) Facilitate an effective ongoing relationship between the teenage parent, the noncustodial parent, and the child where it is in the best interest of the child and the teenage parent.

(D) Assess the suitability of the teenage parent's living situation, including, but not limited to, the physical and emotional health and safety of the teenage parent and the child.

(2) Providing referrals to appropriate community services needed to assist the teenage parent's return to school.

(3) Monitoring each client's progress and making the necessary changes to improve the individual's program.

(4) (A) Acting as a counselor, colleague, and role model so that each teenage parent has someone to trust and to turn to for advice, guidance, and ideas.

(B) Case managers should be prepared to provide intensive counseling during all phases of a teenage parent's progress through the program.

(5) Ensuring that each teenage parent understands the program requirements and the consequences of not making adequate or satisfactory progress required under this article.

(b) Counties shall afford case managers assigned to assist teenage parents sufficient time to provide the needed case management services.

(c) (1) Case managers assigned to assist teenage parents shall possess an expertise in understanding the education, training, and other social and health service needs of teenage parents, as well as the local programs that provide these services.

(2) Each county, in conjunction with the department, shall provide training to persons assigned to work with teenage parents to develop the expertise required by paragraph (1).

(d) The county plan required by Section 11320.6 shall describe the way each county proposes to provide case management services to teenage parents.

SEC. 12. Section 11333 of the Welfare and Institutions Code is amended to read:

11333. (a) Except as provided in subdivision (b), counties shall

contract for the provision of case management services, as described in subdivision (b) of Section 11331.7 and in Section 11332.5, with public or nonprofit agencies or school districts that administer services under the Adolescent Family Life Program (Article 3.2 (commencing with Section 309.100) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code).

(b) Counties may contract with other public or nonprofit agencies or school districts for case management services or provide case management services directly in cases where services from contractors under the Adolescent Family Life Program are not available or cost-effective, or where the county has an existing teen services program, and if all the following conditions are met:

(1) The Director of Health Services has determined that the services conform to the standards and scope of services provided through the Adolescent Family Life Program.

(2) The county plan includes a justification for not contracting with the Adolescent Family Life Program.

(3) The services are designed with the cooperation of the local health agency.

(c) Counties shall include Adolescent Family Life Program contractors in their planning of Cal-Learn implementation.

(d) In implementing this section and developing model contracts, the department shall consult with the State Department of Health Services so as to promote the purposes of this program.

SEC. 13. Section 11333.7 of the Welfare and Institutions Code is amended to read:

11333.7. (a) Any participant required to participate pursuant to Section 11331.5 who maintains satisfactory progress in school shall, not more than four times in a calendar year, receive a one hundred dollar ($100) supplement to the amount of aid paid pursuant to Section 11450. The supplement shall be paid to the assistance unit of which the teenage parent is a member in the month following submission of the report card, if received by the county no later than the eleventh calendar day of the month, or in the second month following submission of the report card, if received by the county after the eleventh calendar day of the month.

(b) (1) Any participant required to participate pursuant to Section 11331.5 who fails to demonstrate that he or she has made adequate progress in school, either by failing to provide the report card or based on the grades on the report card, shall, not more than four times in a calendar year, be subject to a sanction that shall be a reduction of one hundred dollars ($100) of the amount that would otherwise be paid under Section 11450 apportioned equally over a two-month period.

(2) (A) Participants, including, but not limited to, those subject to sanctions, may seek to demonstrate good cause for lack of adequate progress. If there is good cause for lack of adequate progress the county shall either defer the participant from program participation, or waive all or part of the sanction, or both.

Participants shall not otherwise be subject to conciliation under Section 11327.4 and sanctions under Section 11327.5, and shall be referred to case management services to determine the causes of poor school performance and how it can be improved.

(B) For the purposes of this section, good cause as specified in subdivisions (b), (c), (d), (e), (f), (h), (i), and (*l*) of Section 11328 shall constitute good cause only when the events described in those subdivisions substantially deprive the participant of the ability to make adequate progress on the report card or periodic progress report. A good cause determination shall not be based on events described in subdivisions (a), (g), (j), and (k) of Section 11328.

(c) Any participant required to participate pursuant to Section 11331.7 who successfully completes high school or a California high school equivalency examination shall receive a five hundred dollar ($500) supplement. No assistance unit shall receive a one hundred dollar ($100) supplement when a five hundred dollar ($500) supplement for the same report card or progress report is paid. The five hundred dollar ($500) supplement shall be paid to the teenage parent in the month following submission of the record of completion, if received by the county no later than the eleventh calendar day of the month, or in the second month following submission of the record of completion, if received by the county after the eleventh calendar day of the month.

(d) The sanction specified in subdivision (b) shall be applied only once per report card, not to exceed fifty dollars ($50) in any single month, and shall be applied to the amount of aid paid to the assistance unit of which the teenage parent is a member pursuant to Section 11450. The participant shall submit a copy of the report card to the case manager within 10 working days of receipt of the report card.

(e) (1) For purposes of this section, in schools that provide periodic report cards with letter grades, satisfactory progress means maintaining a grade point average of at least 2.0 on a scale where A equals 4.0 points and F equals 0 points, and adequate progress means maintaining a grade point average of at least 1.0 on the same scale.

(2) For the purposes of this section, in schools or other educational programs that do not provide letter grades indicating student performance, satisfactory progress or inadequate progress shall be determined by the school's regular assessment of periodic progress.

(f) In cases where a participant is subject to a sanction pursuant to subdivision (b), case managers shall do all of the following:

(1) Fully inform teenage parents of the consequences of continuing to fail to comply with the program.

(2) Make reasonable efforts to reach teenage parents who they believe are in danger of continuing to fail to make satisfactory or adequate progress or not to attend school.

(3) Make reasonable efforts to secure a face-to-face meeting with a teenage parent before initiating a sanction.

(g) If a teenage parent fails or refuses to comply with program

requirements without good cause, the case manager shall again inform the client of the consequences of not participating in the program, and shall provide the teenage parent with the telephone number and address of the local welfare rights organization or legal aid society, should he or she need further assistance.

SEC. 14. Section 11521 of the Welfare and Institutions Code is amended to read:

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 paragraphs (1) to (12), inclusive, of subdivision (a) 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 (b) 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).

SEC. 15. Section 12300 of the Welfare and Institutions Code is amended to read:

12300. (a) The purpose of this article is to provide in every county in a manner consistent with this chapter and the annual Budget Act those supportive services identified in this section to aged, blind, or disabled persons, as defined under this chapter, who are unable to perform the services themselves and who cannot safely remain in their homes or abodes of their own choosing unless these services are provided.

(b) Supportive services shall include domestic services and services related to domestic services, heavy cleaning, personal care services, accompaniment by a provider when needed during necessary travel to health-related appointments or to alternative resource sites, yard hazard abatement, protective supervision, teaching and demonstration directed at reducing the need for other supportive services, and paramedical services which make it possible for the recipient to establish and maintain an independent living arrangement.

(c) Personal care services shall mean all of the following:

(1) Assistance with ambulation.

(2) Bathing, oral hygiene, and grooming.

(3) Dressing.

(4) Care and assistance with prosthetic devices.

(5) Bowel, bladder, and menstrual care.

(6) Repositioning, skin care, range of motion exercises, and transfers.

(7) Feeding and assurance of adequate fluid intake.

(8) Respiration.

(9) Assistance with self-administration of medications.

(d) Where supportive services are provided by a person having the legal duty pursuant to the Civil Code to provide for the care of his or her child who is the recipient, the provider of supportive services shall receive remuneration for the services only when the provider leaves full-time employment or is prevented from obtaining full-time employment because no other suitable provider is available and where the inability of the provider to provide supportive services may result in inappropriate placement or inadequate care.

These providers shall be paid only for the following:

(1) Services related to domestic services.

(2) Personal care services.

(3) Accompaniment by a provider when needed during necessary travel to health-related appointments or to alternative resource sites.

(4) Protective supervision only as needed because of the functional limitations of the child.

(5) Paramedical services.

(e) To encourage maximum voluntary services, so as to reduce governmental costs, respite care shall also be provided. Respite care is temporary or periodic service for eligible recipients to relieve persons who are providing care without compensation.

(f) A person who is eligible to receive a personal care service or an ancillary service provided pursuant to Section 14132.95 shall not be eligible to receive that same service pursuant to this article.

(g) (1) All services provided pursuant to this article shall be equal in amount, scope, and duration to the same services provided pursuant to Section 14132.95, including any adjustments that may be made to those services pursuant to subdivision (e) of Section 14132.95.

(2) Any recipient receiving services under both Section 14132.95 and this article shall receive no more than 283 hours of service per month, combined, and any recipient of services under this article shall receive no more than the applicable maximum specified in Section 12303.4.

SEC. 16. Section 12301.6 of the Welfare and Institutions Code is amended to read:

12301.6. (a) Notwithstanding Sections 12302 and 12302.1, a county board of supervisors may, at its option, elect to do either of the following:

(1) Contract with a nonprofit consortium to provide for the delivery of in-home supportive services.

(2) Establish, by ordinance, a public authority to provide for the

delivery of in-home supportive services.

(b) (1) To the extent that a county elects to establish a public authority pursuant to paragraph (2) of subdivision (a), the enabling ordinance shall specify the membership of the governing body of the public authority, the qualifications for individual members, the manner of appointment, selection, or removal of members, how long they shall serve, and other matters as the board of supervisors deems necessary for the operation of the public authority.

(2) A public authority established pursuant to paragraph (2) of subdivision (a) shall be both of the following:

(A) An entity separate from the county, and shall be required to file the statement required by Section 53051 of the Government Code.

(B) A corporate public body, exercising public and essential governmental functions and that has all powers necessary or convenient to carry out the delivery of in-home supportive services, including the power to contract for services pursuant to Sections 12302 and 12302.1. Employees of the public authority shall not be employees of the county for any purpose.

(3) (A) As an alternative, the enabling ordinance may designate the board of supervisors as the governing body of the public authority.

(B) Any enabling ordinance that designates the board of supervisors as the governing body of the public authority shall also specify that no fewer than 50 percent of the membership of the advisory committee shall be individuals who are current or past users of personal assistance services paid for through public or private funds or recipients of services under this article.

(C) If the enabling ordinance designates the board of supervisors as the governing body of the public authority, it shall also require the appointment of an advisory committee of not more than 11 individuals who shall be designated in accordance with subparagraph (B).

(D) Prior to making designations of committee members pursuant to subparagraph (C), or governing body members in accordance with paragraph (4), the board of supervisors shall solicit recommendations of qualified members of either the governing body of the public authority or of any advisory committee through a fair and open process that includes the provision of reasonable, written notice to, and a reasonable response time by, members of the general public and interested persons and organizations.

(4) If the enabling ordinance does not designate the board of supervisors as the governing body of the public authority, the enabling ordinance shall require the membership of the governing body to meet the requirements of subparagraph (B) of paragraph (3).

(c) (1) Any public authority created pursuant to this section shall be deemed to be the employer of in-home supportive services personnel referred to recipients under paragraph (3) of subdivision

(d) within the meaning of Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code. Recipients shall retain the right to select, terminate, and direct the work of any in-home supportive services personnel providing services to them.

(2) (A) Any nonprofit consortium contracting with a county pursuant to this section shall be deemed to be the employer of in-home supportive services personnel referred to recipients pursuant to paragraph (3) of subdivision (d) for the purposes of collective bargaining over wages, hours, and other terms and conditions of employment.

(B) Recipients shall retain the right to select, terminate, and direct the work of any in-home supportive services personnel providing services for them.

(d) Any nonprofit consortium contracting with a county pursuant to this section or any public authority established pursuant to this section shall provide for all of the following functions under this article, but shall not be limited to those functions:

(1) The provision of assistance to recipients in finding in-home supportive services personnel through the establishment of a registry.

(2) Investigation of the qualifications and background of potential personnel.

(3) Establishment of a referral system under which in-home supportive services personnel shall be referred to recipients.

(4) Providing for training and monitoring of providers and recipients.

(5) Performing any other functions related to the delivery of in-home supportive services.

(6) Ensuring that the requirements of the personal care option pursuant to Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code are met.

(e) (1) Any nonprofit consortium contracting with a county pursuant to this section or any public authority created pursuant to this section shall be deemed not to be the employer of in-home supportive services personnel referred to recipients under this section for purposes of liability due to the negligence or intentional torts of the in-home supportive services personnel.

(2) In no case shall a nonprofit consortium contracting with a county pursuant to this section or any public authority created pursuant to this section be held liable for action or omission of any in-home supportive services personnel whom the nonprofit consortium or public authority did not list on its registry or otherwise refer to a recipient.

(3) Counties and the state shall be immune from any liability resulting from their implementation of this section in the administration of the In-Home Supportive Services program. Any obligation of the public authority or consortium pursuant to this section, whether statutory, contractual, or otherwise, shall be the obligation solely of the public authority or nonprofit consortium, and

shall not be the obligation of the county or state.

(f) Any nonprofit consortium contracting with a county pursuant to this section shall ensure that it has a governing body that complies with the requirements of subparagraph (B) of paragraph (3) of subdivision (b) or an advisory committee that complies with subparagraphs (B) and (C) of paragraph (3) of subdivision (b).

(g) Recipients of services under this section may elect in-home supportive services personnel who are not referred to them by the public authority or nonprofit consortium. Those personnel shall be referred to the public authority or nonprofit consortium for the purposes of wages, benefits, and other terms and conditions of employment.

(h) Nothing in this section shall be construed to alter, require the alteration of, or interfere with the state payroll system and other provisions of Section 12302.2 for individual providers of in-home supportive services, or to affect the state's responsibility with respect to unemployment insurance, or workers' compensation for providers of in-home supportive services.

(i) To the extent permitted by federal law, personal care option funds, obtained pursuant to Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code, along with matching funds using the state and county sharing ratio established in subdivision (c) of Section 12306, or any other funds that are obtained pursuant to Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code, may be used to establish and operate an entity authorized by this section.

(j) Notwithstanding any other provision of law, the county, in exercising its option to establish a public authority, shall not be subject to competitive bidding requirements. However, contracts entered into by either the county, a public authority, or a nonprofit consortium pursuant to this section shall be subject to competitive bidding as otherwise required by law.

(k) (A) The department may adopt regulations implementing this section as emergency regulations in accordance with Chapter 3.5 (commending with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedures Act, the adoption of the regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, these emergency regulations shall not be subject to the review and approval of the Office of Administrative Law.

(B) Notwithstanding subdivision (h) of Section 11364.1 and Section 11349.6 of the Government Code, the department shall transmit these regulations directly to the Secretary of State for filing. The regulations shall become effective immediately upon filing by the Secretary of State.

(C) Except as otherwise provided for by Section 10554, the Office

of Administrative Law shall provide for the printing and publication of these regulations in the California Code of Regulations. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, these regulations shall not be repealed by the Office of Administrative Law and shall remain in effect until revised or repealed by the department.

(*l*) (1) In the event that a county elects to form a nonprofit consortium or public authority pursuant to subdivision (a) before the State Department of Health Services has obtained all necessary federal approvals pursuant to paragraph (3) of subdivision (j) of Section 14132.95, all of the following shall apply:

(A) Subdivision (c) shall apply only to those matters that do not require federal approval.

(B) The second sentence of subdivision (g) shall not be operative.

(C) The nonprofit consortium or public authority shall not provide services other than those specified in paragraphs (1), (2), (3), (4), and (5) of subdivision (d).

(2) Paragraph (1) shall become inoperative when the State Department of Health Services has obtained all necessary federal approvals pursuant to paragraph (3) of subdivision (j) of Section 14132.95.

SEC. 17. The sum of eight hundred seventy-nine thousand dollars ($879,000) is hereby appropriated from the General Fund to the State Department of Social Services to conduct several demonstration projects to test a variety of administrative alternatives for the Aid to Families with Dependent Children Program and the Food Stamp Program and implement the Cal-Learn Program, the California Alternative Assistance Program, and the supplemental child care payment, in accordance with Chapter 69 of the Statutes of 1993. The funds shall be allocated according to the following schedule:

(a) In augmentation of Item 5180-001-001 of Section 2.00 of the Budget Act of 1993, the sum of four hundred thirty-nine thousand five hundred dollars ($439,500), for administrative costs.

(b) In augmentation of Item 5180-001-890 of Section 2.00 of the Budget Act of 1993, the sum of four hundred thirty-nine thousand five hundred dollars ($439,500), for administrative costs.

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.

CHAPTER 1253

An act to amend Section 273a of the Penal Code, relating to crimes.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 273a of the Penal Code is amended to read:

273a. (a) (1) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in such a situation that its person or health is endangered, is punishable by imprisonment in a county jail not exceeding one year, or in the state prison for 2, 4, or 6 years.

(2) Any person convicted under this subdivision who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or injury that results in death, or having the care or custody of any child, under circumstances likely to produce great bodily harm or death, willfully causes or permits that child to be injured or harmed, and that injury or harm results in death, shall receive a four-year enhancement for each such violation in addition to the sentence provided for that conviction. Nothing in this paragraph shall be construed as affecting the applicability of subdivision (a) of Section 187 or Section 192.

(b) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in such a situation that its person or health may be endangered, is guilty of a misdemeanor.

CHAPTER 1254

An act to add Chapter 7.8 (commencing with Section 1775) to Division 2 of the Fish and Game Code, relating to wetlands, and making an appropriation therefor.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Chapter 7.8 (commencing with Section 1775) is added to Division 2 of the Fish and Game Code, to read:

CHAPTER 7.8. SACRAMENTO-SAN JOAQUIN VALLEY WETLANDS MITIGATION BANK ACT OF 1993

Article 1. General Provisions

1775. This chapter shall be known and may be cited as the Sacramento-San Joaquin Valley Wetlands Mitigation Bank Act of 1993.

1776. The Legislature finds and declares the following:

(a) Wetlands are an important natural resource of the Sacramento-San Joaquin Valley because they provide significant habitat for migratory waterfowl of the Pacific flyway, for endangered species, and for many other resident wildlife and fish populations. Wetlands provide additional public benefits, including water quality improvement, flood protection, stream bank stabilization, recreation, and scientific research.

(b) Active and voluntary involvement by private landowners is necessary for the long-term availability and productivity of wetlands in the Sacramento-San Joaquin Valley.

(c) Large wetland preserves in the Sacramento-San Joaquin Valley, under certain circumstances, can provide an environmentally preferable alternative to a number of small, isolated wetland preserves of the same type surrounded by urban development.

(d) It is the policy of the state with respect to the Sacramento-San Joaquin Valley:

(1) To provide for the protection, preservation, restoration, enhancement, and expansion of the wetland habitat in the Sacramento-San Joaquin Valley.

(2) To promote the protection, preservation, restoration, enhancement, and expansion of the Sacramento-San Joaquin Valley wetlands in concert with other federal, state, and local programs, and interested parties.

(3) To improve cooperative efforts among private, nonprofit, and public entities for the management and protection of wetlands.

(4) To assure that no net loss of either wetland acreage or habitat values results from activities pursuant to this chapter in the Sacramento-San Joaquin Valley that otherwise comply with state and federal law.

(5) To encourage and maintain a predictable, efficient, and timely regulatory framework for environmentally acceptable development.

(6) To assure that the construction or maintenance of wetland mitigation banks in the Sacramento-San Joaquin Valley does not reduce any local tax base, does not create any uncompensated increased requirement for local services, and does not create conditions that have the potential to adversely affect the public health.

(7) To provide an alternative for accomplishing offsite mitigation in the Sacramento-San Joaquin Valley when offsite mitigation is required under a fill permit issued pursuant to Section 404 of the federal Clean Water Act (33 U.S.C. Sec. 1344 et seq.).

(e) This chapter constitutes a nonexclusive alternative to other lawful methods of mitigating project impacts upon wetlands and maintaining and increasing wetlands acreage and habitat values generally. Specifically, this chapter is not intended to, and shall not be interpreted to:

(1) Condone or encourage the removal, loss, or degradation of wetlands.

(2) Condone or encourage the removal, loss, or degradation of habitat for any rare, threatened, or endangered species.

(3) Abrogate any other local, state, or federal law or policy relating to wetlands, nor prohibit any city or county from prohibiting the removal, filling, or other destruction of particular wetlands.

(4) Establish maximum or minimum standards or any other requirements for wetland fill or mitigation, except for mitigation banks established pursuant to this chapter.

(5) Have legal or necessary precedential application to any other area of the state, or to other lands, resources, situations, or circumstances.

(6) Preclude other forms of mitigation banking, including private or for-profit programs, within the Sacramento-San Joaquin Valley.

(7) Be the exclusive method of providing compensation by permittees for the loss of wetlands within the Sacramento-San Joaquin Valley.

1776.5. It is the intent of the Legislature that the funds necessary to cover the costs of administering this chapter be provided by the purchase of credits in mitigation bank sites.

1777. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

1777.2. "Bank site" or "mitigation bank site" means a publicly or privately owned and operated site on which wetlands have been or will be created in accordance with this chapter to compensate for adverse impacts caused by removal or fill permit activities authorized pursuant to Section 404 of the federal Clean Water Act

(33 U.S.C. Sec. 1344 et seq.).

1777.5. "Credit" means a numerical value that represents the wetland acreage and habitat values of a mitigation bank site.

1778. "Operator" means the department, or a public or private person or entity approved by the department, to administer a wetlands mitigation bank site.

1778.5. "Permittee" means a public or private person or entity that meets all of the following conditions:

(a) Has received a permit pursuant to Section 404 of the federal Clean Water Act (33 U.S.C. Sec. 1344 et seq.) for the removal or filling of wetlands, subject to a condition that allows the permittee to compensate for the wetland loss through participation in a wetland mitigation bank pursuant to this chapter.

(b) Proposes to compensate for the loss of the wetlands through participation in a wetlands mitigation bank pursuant to this chapter.

(c) Proposes the discharge at a site within a qualifying urban area and not more than 40 miles from a bank site with sufficient acreage of the same types of wetlands that will provide suitable replacement habitat for the values that may be lost from the conversion of the existing wetlands.

1779. "Qualifying urban area" means any of the following when they occur within the Sacramento-San Joaquin Valley:

(a) A geographical area having a population of 50,000 or more inhabitants within the jurisdiction of a city, or a town, as defined by Sections 20 and 21 of the Government Code.

(b) A portion of any geographical area within a town, as defined in Section 21 of the Government Code, which has a population density equal to, or exceeding, 1,500 persons per square mile and which has a population of 50,000 or more inhabitants.

(c) A geographical area having a population density equal to, or exceeding, 1,500 persons per square mile, and an adjacent city, as defined in Section 20 of the Government Code, where the combined population of the geographical area and the city equals 50,000 or more inhabitants.

(d) A geographical area within the sphere of influence of a city or community services district for which the projected population of the adopted general plan equals 10,000 or more inhabitants.

1779.5. "Sacramento-San Joaquin Valley" means the central valley region, as defined in subdivision (g) of Section 13200 of the Water Code.

Article 2. Legislative Goals

1780. The purpose of this chapter is to ensure that no net loss of wetland acreage or habitat values within the Sacramento-San Joaquin Valley occurs as a result of fill permit activities pursuant to Section 404 of the federal Clean Water Act (33 U.S.C. Sec. 1344 et seq.).

1781. It is the state's goal to increase the total wetlands acreage

and values within the Sacramento-San Joaquin Valley.

Article 3. Wetlands Mitigation Banks

1784. (a) The department, in cooperation with those agencies specified in Section 1786, shall adopt regulations that establish standards and criteria for the bank site qualification process, for the evaluation of wetland acreage and habitat values created at the bank sites, and for the operation and evaluation of bank sites, and any other regulations that are necessary to implement this chapter.

These criteria shall require, at a minimum, that the newly created wetland provide the hydrologic, vegetative, and wildlife characteristics, including the food web components, of a naturally occurring wetland system.

(b) With respect to bank site standards and operator qualifications, the department shall consider, at a minimum, all of the following criteria:

(1) A requirement that the bank site have a reliable, adequate, and available water supply necessary to provide wetland values. For wetlands dependent only on rainfall, rainfall satisfies this requirement.

(2) The relative ease or difficulty of converting uplands into wetlands at the bank site.

(3) The anticipated maintenance necessary to sustain the recreated and created wetlands at the bank site.

(4) The proximity of the bank site to other established preserves or natural features historically associated with abundant wildlife values.

(5) The proximity of the bank site to urban or populated areas that could reduce the bank site's long-term biological values.

(6) The demonstrated ability of the bank site operator to create, administer, maintain, and protect the bank site in perpetuity, including financial, technical, and management ability.

(7) The relative abundance or scarcity of the wetland type to be created at the bank site.

1785. If any person desires to establish a wetlands mitigation bank site under this chapter, the person shall apply to the department for a determination that the bank site and the operator qualify under the criteria established by the department pursuant to this chapter. The determination that a bank site qualifies under this chapter is a project for purposes of Section 21065 of the Public Resources Code.

1786. (a) Before any wetlands are created on the bank site qualified pursuant to Section 1785, the department shall coordinate and shall be a signatory to a memorandum of understanding with the operator. The United States Environmental Protection Agency, the United States Army Corps of Engineers, the Fish and Wildlife Service of the United States Department of the Interior, the Central Valley Regional Water Quality Control Board, and the State Department of Health Services or its designee, or any of them, may

be signatories by indicating to the department their interest in participating within 90 days of being notified by the department of the department's intent to initiate the procedures described in this section. Any county located in whole or in part in the Sacramento-San Joaquin Valley may, by ordinance, require that it be a signatory to any memorandum of understanding for a bank site to be established within its boundary.

(b) The memorandum of understanding shall include, but is not limited to, all of the following items:

(1) Identification of the mitigation bank site, including the legal property description, acreage, types, and location of existing wetlands within the boundaries of the bank site.

(2) An agreement, by each of the governmental agencies in subdivision (a), that all new, successfully created wetland acreage shall qualify to be credited against the approved removal or fill of wetlands located in the qualifying urban area and within 40 miles of the bank site and is consistent with the procedures set out in this chapter.

(3) An agreement by the operator to do both of the following:

(A) Maintain all wetland habitat within the bank in optimum condition in perpetuity, barring an unforeseen natural catastrophe that precludes the viability of wetlands.

(B) Establish a trust or bond in favor of the department that provides sufficient funds to ensure administration, protection, operation, and maintenance in perpetuity of the wetland habitat acreage and values at the mitigation bank site if the operator defaults in performing the duties required pursuant to subparagraph (A).

(4) In the case of privately owned bank sites, identification of the circumstances that would constitute a major breach of the agreement and that would result in either the replacement of the operator, or the passing of title from the owner to the state, or both, including identification of procedures for adequate notice and opportunity for the operator to be heard and to correct any breach.

1787. (a) If the bank site owner is a public entity, that entity shall pay annually to the county in which the property is located an amount equal to the county taxes levied on the property at the time title to the bank site is transferred to that entity. The public entity shall also pay the assessments levied upon the property by any irrigation, drainage, or reclamation district.

(b) Payments under this section shall be made on or before December 10 of each year, except for newly acquired bank sites, for which payments shall be made pursuant to subdivision (c).

(c) Payments for newly acquired bank sites shall be made within one year of the date title to the property was transferred to the state, prorated for the balance of the year from the date title was transferred to the 30th day of June following the date title was transferred, and, thereafter, payments shall be made on or before December 10 of each year.

Article 4. Wetlands

1790. Upon the successful creation of any wetlands of at least 20 acres, or in the case of vernal pools, upon successful creation of vernal pools on a site at least 20 acres in size, the operator may request a determination by the department of the number of acres in the mitigation bank site, and the relative habitat value thereof, that qualify for credit against prospective wetland loss in the qualifying urban area. In determining the amount of mitigation bank credit, no credit shall be provided for habitat values or acreage that was in existence prior to the establishment of the bank.

1791. (a) Upon receipt of a request pursuant to Section 1790, the department shall determine the number of acres which are wetlands in the bank site based on the criteria established pursuant to Section 1784, and the department shall classify those wetlands according to established biological criteria.

(b) The classifications shall include, but are not limited to, the following wetland types:

(1) Perennial freshwater marsh.
(2) Perennial brackish marsh.
(3) Seasonal freshwater marsh.
(4) Wet meadow.
(5) Vernal pool.
(6) Riparian woodland.
(7) Riparian scrub.

1792. In the interest of assuring that the minimum price for wetland credit is sufficient to ensure the financial integrity of the bank, the department may establish a minimum price for each bank established pursuant to this chapter. The operator may set a higher price to the extent that price is consistent with the terms of the memorandum of understanding executed pursuant to Section 1785. After the department determines the number of wetland acres in the bank site that qualify for credit against wetland loss in a qualifying urban area, the operator shall provide to the department, and the department shall verify, an accounting of the average cost for each wetland acre created, by wetland type for the purpose of determining credits, using the following factors:

(a) Land costs, including the reasonable interest cost of holding the land.

(b) Wetland creation costs.

(c) Wetland administration, maintenance, and protection costs.

(d) Annual taxes, including all tax increases allowed under applicable state law, and in-lieu payments pursuant to Section 1787, if applicable.

(e) Costs incurred by the department in establishing the bank site, and the direct cost of necessary ongoing monitoring and oversight.

(f) Any other information relevant to a determination of the cost of preserving the wetlands in perpetuity.

1792.5. The department shall be reimbursed for those expenses of the department identified in Section 1792 according to a schedule contained in an agreement with the person establishing a wetland mitigation bank. The agreement shall be approved by all parties prior to the commencement of planning activities.

Article 5. Discharge into Wetlands

1793. A permittee shall provide compensation pursuant to Section 404 of the federal Clean Water Act (33 U.S.C. Sec. 1344 et seq.). The department shall classify the wetlands that the permittee will remove according to wetland type, consistent with Article 4 (commencing with Section 1790).

1794. Compensation pursuant to Section 1793 is subject to the condition that the operator establish the trust or bond required by subparagraph (B) of paragraph (3) of subdivision (b) of Section 1786 and, in addition, is subject to the following conditions:

(a) The full payment shall be used to purchase credits in the mitigation bank site.

(b) The payment shall provide for purchase of bank site wetland acreage required by Section 1793 that has the same hydrologic, vegetative, and other characteristics as the system for which it will serve as mitigation.

(c) A permittee shall not participate in a wetlands mitigation bank if a net loss of wetland habitat values or acreage occurs.

1795. After payment to the operator pursuant to this article, the permittee has no further obligations with respect to the operation of the bank site to which payment was made, unless the permittee has an equity involvement in the bank.

1796. No bank site shall be qualified under Section 1785 on or after January 1, 2010. Notwithstanding Section 7550.5 of the Government Code, the department shall report to the Legislature on or before February 1, 1996, and once annually thereafter, with a description and evaluation of each mitigation bank site approved pursuant to this chapter, including, but not limited to, the number of wetland acres and habitat values created, the number of credits issued, an assessment of the biological productivity of the created wetlands, a comparison of the wetlands acreage and values that were created in the mitigation bank and those that were lost by the various projects for which credits were obtained, and any recommendations for improving the program.

CHAPTER 1255

An act to amend Sections 1981 and 48915 of the Education Code, relating to pupils, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 1981 of the Education Code is amended to read:

1981. The county board of education may enroll in community schools any of the following:

(a) Pupils who have been expelled from a school district under one or both of the following circumstances:

(1) While attending continuation classes, opportunity classes, or alternative classes.

(2) On one or more of the grounds set forth in subdivisions (a) to (e), inclusive, of Section 48900.

(b) Pupils who have been referred to county community schools by a school district as a result of the recommendation by a school attendance review board or pupils whose school districts of attendance have, at the request of the pupil's parent or guardian, approved the pupil's enrollment in a county community school.

(c) Pupils who are probation-referred pursuant to Sections 300, 601, 602, and 654 of the Welfare and Institutions Code, or who are on probation or parole and who are not in attendance in any school.

(d) Homeless children.

SEC. 2. Section 48915 of the Education Code is amended to read:

48915. (a) The principal or the superintendent of schools shall recommend a pupil's expulsion for any of the following acts, unless the principal or superintendent finds, and so reports in writing to the governing board, that expulsion is inappropriate, due to the particular circumstance, which shall be set out in the report of the incident:

(1) Causing serious physical injury to another person, except in self-defense.

(2) Possession of any dangerous object of no reasonable use to the pupil at school or at a school activity off school grounds.

(3) Unlawful sale of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, except for the first offense for the sale of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.

(4) Robbery or extortion.

(b) The principal or the superintendent of schools shall immediately suspend pursuant to Section 48911, and shall

recommend to the governing board the expulsion of, any pupil found to be in possession of a firearm, knife of no reasonable use to the pupil, or explosive at school or at a school activity off school grounds. The governing board shall expel that pupil or, as an alternative, refer that pupil to an alternative education program, whenever the principal or superintendent of schools and the governing board confirm that:

(1) The pupil was in knowing possession of the firearm, knife, or explosive.

(2) Possession of the firearm, knife of no reasonable use to the pupil, or explosive was verified by an employee of the school district.

(3) There was no reasonable cause for the pupil to be in possession of the firearm, knife, or explosive.

(c) Upon recommendation by the principal, superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board may order a pupil expelled upon finding that the pupil violated subdivision (a), (b), (c), (d), or (e) of Section 48900, except that a pupil found in possession of a firearm, knife of no reasonable use to the pupil, or explosive shall be expelled or referred to an alternative education program as specified in subdivision (b) of this section.

(d) Upon recommendation by the principal, superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board may order a pupil expelled upon finding that the pupil violated subdivision (f), (g), (h), (i), (j), (k), or (*l*) of Section 48900 and either of the following:

(1) That other means of correction are not feasible or have repeatedly failed to bring about proper conduct.

(2) That due to the nature of the violation, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

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 to ensure public safety on school campuses and at school

activities off school grounds, it is necessary that this act take effect immediately.

CHAPTER 1256

An act to amend Sections 1981 and 48915 of, and to add Section 48915.7 to, the Education Code, relating to pupils.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 1981 of the Education Code is amended to read:

1981. The county board of education may enroll in community schools any of the following:

(a) Pupils who have been expelled from a school where they attended continuation classes, opportunity classes, or alternative classes, or pupils who have been expelled from a school pursuant to subdivision (b) of Section 48915.

(b) Pupils who have been referred to county community schools by a school district as a result of the recommendation by a school attendance review board or pupils whose school districts of attendance have, at the request of the pupil's parent or guardian, approved the pupil's enrollment in a county community school.

(c) Pupils who are probation-referred pursuant to Sections 300, 601, 602, and 654 of the Welfare and Institutions Code, or who are on probation or parole and who are not in attendance in any school.

(d) Homeless children.

SEC. 1.5. Section 1981 of the Education Code is amended to read:

1981. The county board of education may enroll in community schools any of the following:

(a) Pupils who have been expelled from a school where they attended continuation classes, opportunity classes, or alternative classes excluding those pupils who are expelled pursuant to subdivision (a) of Section 48915.

(b) Pupils who have been referred to county community schools by a school district as a result of the recommendation by a school attendance review board or pupils whose school districts of attendance have, at the request of the pupil's parent or guardian, approved the pupil's enrollment in a county community school.

(c) Pupils who are probation-referred pursuant to Sections 300, 601, 602, and 654 of the Welfare and Institutions Code, or who are on probation or parole and who are not in attendance in any school, or who are expelled pursuant to subdivisions (a) or (b) of Section 48915.

(d) Homeless children.

SEC. 2. Section 48915 of the Education Code is amended to read:

48915. (a) The principal or the superintendent of schools shall recommend a pupil's expulsion for any of the following acts, unless the principal or superintendent finds, and so reports in writing to the governing board, that expulsion is inappropriate, due to the particular circumstance, which shall be set out in the report of the incident:

(1) Causing serious physical injury to another person, except in self-defense.

(2) Possession of any knife, explosive, or other dangerous object of no reasonable use to the pupil at school or at a school activity off school grounds.

(3) Unlawful sale of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, except for the first offense for the sale of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.

(4) Robbery or extortion.

(b) The principal or the superintendent of schools shall immediately suspend, pursuant to Section 48911, any pupil found to be in possession of a firearm at school or at a school activity off school grounds and shall recommend expulsion of that pupil to the governing board. The governing board shall expel that pupil or refer that pupil to a program of study that is appropriately prepared to accommodate students who exhibit discipline problems and is not provided at a comprehensive middle, junior, or senior high school or housed at the schoolsite attended by the pupil at the time the expulsion was recommended to the school board, whenever the principal or superintendent of schools and the governing board confirm the following:

(1) The pupil was in knowing possession of the firearm.

(2) An employee of the school district verifies the pupil's possession of the firearm.

(c) Upon recommendation by the principal, superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board may order a pupil expelled upon finding that the pupil violated subdivision (a), (b), (c), (d), or (e) of Section 48900, except that a pupil found in possession of a firearm shall be expelled or referred to another school as specified in subdivision (b).

(d) Upon recommendation by the principal, superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board may order a pupil expelled upon finding that the pupil violated subdivision (f), (g), (h), (i), (j), (k), or (*l*) of Section 48900 or Section 48900.2 and either of the following:

(1) That other means of correction are not feasible or have repeatedly failed to bring about proper conduct.

(2) That due to the nature of the violation, the presence of the pupil causes a continuing danger to the physical safety of the pupil

or others.

(e) Any pupil who is authorized to be in possession of a firearm by a teacher, schoolsite administrator, or principal is exempted from the requirements of this section.

SEC. 3. Section 48915.7 is added to the Education Code, to read:

48915.7. It is the intent of the Legislature that where community school opportunities exist, the principal shall recommend for expulsion, and the governing board shall expel, any pupil who is found to be in possession of a firearm at school or at a school activity off school grounds and that the governing board shall request the county board of education to enroll the pupil in a community school.

SEC. 4. Section 1.5 shall become operative if (1) both this bill and SB 1130 are enacted and become effective January 1, 1994, (2) each bill amends Section 1981 of the Education Code, and (3) this bill is enacted after SB 1198 in which case Section 1 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.

CHAPTER 1257

An act to amend Sections 1981, 48915.1 and 49079 of, and to add Sections 1982.5 and 48915.2 to, the Education Code, and to amend Sections 241.6 and 243.6 of the Penal Code, relating to school crimes.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 1981 of the Education Code is amended to read:

1981. The county board of education may enroll in community schools any of the following:

(a) Pupils who have been expelled from a school while attending either continuing classes, opportunity classes, or alternative classes, excluding those pupils who are expelled pursuant to subdivision (a) of Section 48915.

(b) Pupils who have been referred to county community schools by a school district as a result of the recommendation by a school attendance review board or pupils whose school districts of attendance have, at the request of the pupil's parent or guardian, approved the pupil's enrollment in a county community school.

(c) Pupils who are probation-referred pursuant to Sections 300, 601, 602, and 654 of the Welfare and Institutions Code, or who are on probation or parole and who are not in attendance in any school, or who are expelled pursuant to subdivision (a) of Section 48915.

(d) Homeless children.

SEC. 1.1. Section 1981 of the Education Code is amended to read:

1981. The county board of education may enroll in community schools any of the following:

(a) Pupils who have been expelled from a school district, except those pupils who are expelled pursuant to subdivision (a) of Section 48915, under one or both of the following circumstances:

(1) While attending continuation classes, opportunity classes, or alternative classes.

(2) On one or more of the grounds set forth in subdivisions (a) to (e), inclusive, of Section 48900.

(b) Pupils who have been referred to county community schools by a school district as a result of the recommendation by a school attendance review board or pupils whose school districts of attendance have, at the request of the pupil's parent or guardian, approved the pupil's enrollment in a county community school.

(c) Pupils who are probation-referred pursuant to Sections 300, 601, 602, and 654 of the Welfare and Institutions Code, or who are on probation or parole and who are not in attendance in any school, or who are expelled pursuant to subdivision (a) of Section 48915.

(d) Homeless children.

SEC. 1.2. Section 1981 of the Education Code is amended to read:

1981. The county board of education may enroll in community schools any of the following:

(a) Pupils who have been expelled from a school while attending either continuing classes, opportunity classes, or alternative classes excluding those pupils who are expelled pursuant to subdivision (a) of Section 48915.

(b) Pupils who have been referred to county community schools by a school district as a result of the recommendation by a school attendance review board or pupils whose school districts of attendance have, at the request of the pupil's parent or guardian, approved the pupil's enrollment in a county community school.

(c) Pupils who are probation-referred pursuant to Sections 300, 601, 602, and 654 of the Welfare and Institutions Code, or who are on probation or parole and who are not in attendance in any school, or who are expelled pursuant to subdivision (a) or (b) of Section 48915.

(d) Homeless children.

SEC. 1.3. Section 1981 of the Education Code is amended to read:

1981. The county board of education may enroll in community

schools any of the following:

(a) Pupils who have been expelled from a school district, except those pupils who are expelled pursuant to subdivision (a) of Section 48915 under one or both of the following circumstances:

(1) While attending continuation classes, opportunity classes, or alternative classes.

(2) On one or more of the grounds set forth in subdivisions (a) to (e), inclusive, of Section 48900.

(b) Pupils who have been referred to county community schools by a school district as a result of the recommendation by a school attendance review board or pupils whose school districts of attendance have, at the request of the pupil's parent or guardian, approved the pupil's enrollment in a county community school.

(c) Pupils who are probation-referred pursuant to Sections 300, 601, 602, and 654 of the Welfare and Institutions Code, or who are on probation or parole and who are not in attendance in any school, or who are expelled pursuant to subdivision (a) or (b) of Section 48915.

(d) Homeless children.

SEC. 2. Section 1982.5 is added to the Education Code, to read:

1982.5. Notwithstanding subdivision (b) of Section 1982, for purposes of making apportionments from the State School Fund, pupils enrolled in juvenile court schools because they were expelled pursuant to subdivision (a) of Section 48915 shall be deemed the same as pupils enrolled in county community schools pursuant to subdivision (a), (b), or (d) of Section 1981.

SEC. 2.5. Section 48915.1 of the Education Code is amended to read:

48915.1. (a) If the governing board of a school district receives a request from an individual who has been expelled from another school district for an act other than those described in subdivision (a) of Section 48915, for enrollment in a school maintained by the school district, the board shall hold a hearing to determine whether that individual poses a continuing danger either to the pupils or employees of the school district. The hearing and notice shall be conducted in accordance with the rules and regulations governing procedures for the expulsion of pupils as described in Section 48918. A school district may request information from another school district regarding a recommendation for expulsion or the expulsion of an applicant for enrollment. The school district receiving the request shall respond to the request with all deliberate speed but shall respond no later than five working days from the date of the receipt of the request.

(b) If a pupil has been expelled from his or her previous school for offenses other than those listed in subdivision (a) of Section 48915, the parent, guardian, or pupil, if the pupil is emancipated or otherwise legally of age, shall, upon enrollment, inform the receiving school district of his or her status with the previous school district. If this information is not provided to the school district and the school district later determines the pupil was expelled from the previous

school, the lack of compliance shall be recorded and discussed in the hearing required pursuant to subdivision (a).

(c) The governing board of a school district may make a determination to deny enrollment to an individual who has been expelled from another school district for an act other than those described in subdivision (a) of Section 48915, for the remainder of the expulsion period after a determination has been made, pursuant to a hearing, that the individual poses a potential danger to either the pupils or employees of the school district.

(d) The governing board of a school district, when making its determination whether to enroll an individual who has been expelled from another school district for these acts, may consider the following options:

(1) Deny enrollment.

(2) Permit enrollment.

(3) Permit conditional enrollment in a regular school program or another educational program.

(e) Notwithstanding any other provision of law, the governing board of a school district, after a determination has been made, pursuant to a hearing, that an individual expelled from another school district for an act other than those described in subdivision (a) of Section 48915 does not pose a danger to either the pupils or employees of the school district, shall permit the individual to enroll in a school in the school district during the term of the expulsion, provided that he or she, subsequent to the expulsion, either has established legal residence in the school district, pursuant to Section 48200, or has enrolled in the school pursuant to an interdistrict agreement executed between the affected school districts pursuant to Chapter 5 (commencing with Section 46600).

SEC. 3. Section 48915.2 is added to the Education Code, to read:

48915.2. (a) A pupil expelled from school for any of the offenses listed in subdivision (a) of Section 48915, shall not be permitted to enroll in any other school or school district during the period of expulsion unless it is a county community school pursuant to subdivision (b) of Section 1981, or a juvenile court school, as described in Section 48645.1.

(b) After a determination has been made, pursuant to a hearing under Section 48918, that an individual expelled from another school district for any act described in subdivision (a) of Section 48915 does not pose a danger to either the pupils or employees of the school district, the governing board of a school district may permit the individual to enroll in the school district after the term of expulsion, subject to one of the following conditions:

(1) He or she has established legal residence in the school district, pursuant to Section 48200.

(2) He or she is enrolled in the school pursuant to an interdistrict agreement executed between the affected school districts pursuant to Chapter 5 (commencing with Section 46600) of Part 26.

SEC. 4. Section 49079 of the Education Code is amended to read:

49079. (a) A school district shall inform the teacher of each pupil who has engaged in, or is reasonably suspected to have engaged in, any of the acts described in any of the subdivisions, except subdivision (h), of Section 48900. The district shall provide the information to the teacher based upon any records that the district maintains in its ordinary course of business, or receives from a law enforcement agency, regarding a pupil described in this section.

(b) No school district, or school district officer or employee, shall be civilly or criminally liable for providing information under this section unless it is proven that the information was false and that the district or district officer or employee knew that the information was false, or was made with a reckless disregard for the truth or falsity of the information provided.

(c) An officer or employee of a school district who knowingly fails to provide information about a pupil who has engaged in, or who is reasonably suspected to have engaged in, the acts referred to in subdivision (a), is guilty of a misdemeanor, which is punishable by confinement in the county jail for a period not to exceed six months, or by a fine not to exceed one thousand dollars ($1,000), or both.

(d) The reporting period of the information required by this section shall commence in the 1990–91 school year. For that school year, the information described in subdivision (a) shall be from the previous school year. For the 1991–92 school year, the information provided shall be from the previous two school years. For the 1992–93 school year and each school year thereafter, the information provided shall be from the previous three school years.

(e) Any information received by a teacher pursuant to this section shall be received in confidence for the limited purpose for which it was provided and shall not be further disseminated by the teacher.

(f) In no event shall this section be retroactively applied to any individual for any act of that individual undertaken, or failure to act by that individual, prior to January 1, 1994.

SEC. 5. Section 241.6 of the Penal Code is amended to read:

241.6. When an assault is committed against a school employee engaged in the performance of his or her duties, or in retaliation for an act performed in the course of his or her duties, whether on or off campus, during the schoolday or at any other time, and the person committing the offense knows or reasonably should know the victim is a school employee, the assault is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars ($2,000), or by both the fine and imprisonment.

For purposes of this section, "school employee" has the same meaning as defined in subdivision (d) of Section 245.5.

This section shall not apply to conduct arising during the course of an otherwise lawful labor dispute.

SEC. 6. Section 243.6 of the Penal Code is amended to read:

243.6. When a battery is committed against a school employee engaged in the performance of his or her duties, or in retaliation for an act performed in the course of his or her duties, whether on or

off campus, during the schoolday or at any other time, and the person committing the offense knows or reasonably should know that the victim is a school employee, the battery is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars ($2,000), or by both the fine and imprisonment. However, if an injury is inflicted on the victim, the battery shall be punishable by imprisonment in a county jail for not more than one year, or by a fine of not more than two thousand dollars ($2,000), or by imprisonment in the state prison for 16 months, or two or three years.

For purposes of this section, "school employee" has the same meaning as defined in subdivision (d) of Section 245.5.

This section shall not apply to conduct arising during the course of an otherwise lawful labor dispute.

SEC. 7. (a) Section 1.1 of this bill incorporates amendments to Section 1981 of the Education Code proposed by both this bill and AB 342. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 1981 of the Education Code, (3) SB 1998 is not enacted or as enacted does not amend that Section 1981 of the Education Code, and (4) this bill is enacted after AB 342, in which case Section 1981 of the Education Code, as amended by AB 342 shall remain operative only until the operative date of this bill, at which time Section 1.1 of this bill shall become operative and Sections 1, 1.2, and 1.3 of this bill shall not become operative.

(b) Section 1.2 of this bill incorporates amendments to Section 1981 of the Education Code proposed by both this bill and SB 1198. It shall only become operative if (1) both bills are enacted and become effective January 1, 1994, (2) each bill amends Section 1981 of the Education Code, (3) AB 342 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1198 in which case Sections 1, 1.1, and 1.3 of this bill shall not become operative.

(c) Section 1.3 of this bill incorporates amendments to Section 1981 of the Education Code proposed by this bill, AB 342, and SB 1198. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1994, (2) all three bills amend Section 1981 of the Education Code, and (3) this bill is enacted after AB 342 and SB 1198, in which case Section 1981 as amended by A.B. 342, shall remain operative only until the operative date of this bill, at which time Section 1.3 of this bill shall become operative and Sections 1, 1.1, and 1.2 of this bill shall not become operative.

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 1258

An act to amend Sections 14530.5, 14551, and 14585 of, and to repeal Sections 14513.5 and 14542.1 of, the Public Resources Code, relating to beverage containers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 14513.5 of the Public Resources Code is repealed.

SEC. 2. Section 14530.5 of the Public Resources Code is amended to read:

14530.5. (a) For purposes of entering into contracts for consulting, promotional, or advisory services necessary to implement this division, the requirements of Sections 11042 and 14615 of the Government Code and Sections 10295 and 10318 of the Public Contract Code do not apply to the activities of the department pursuant to this division, except that any sole source contract awarded by the department shall be reviewed and approved by the Department of General Services.

(b) In addition to any regulations which the department is required by statute to adopt, the department may adopt any other rules and regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code which the department determines may be necessary or useful to carry out this division or any of the department's duties or responsibilities imposed pursuant to this division.

(c) The department may prepare, publish, and issue printed pamphlets, promotional materials, and bulletins which the director determines to be necessary for the dissemination of information to the public concerning the activities of the department pursuant to this division.

SEC. 3. Section 14542.1 of the Public Resources Code is repealed.

SEC. 4. Section 14551 of the Public Resources Code is amended to read:

14551. (a) The department shall establish reporting periods for the reporting of redemption rates and recycling rates, and each reporting period shall be six months. The department shall

determine all of the following for each reporting period and shall issue a report on its determinations within 70 days of the end of each reporting period:

(1) Sales of beverages in aluminum beverage containers, nonaluminum metal beverage containers, glass beverage containers, plastic beverage containers, and other beverage containers in this state, including refillable beverage containers.

(2) Returns for recycling, and returns not for recycling, of empty aluminum beverage containers, nonaluminum metal beverage containers, glass beverage containers, plastic beverage containers, and other beverage containers in this state, including refillable beverage containers returned to distributors pursuant to Section 14572. These numbers shall be calculated using the average current weights of beverage containers, as determined and reported by the department. To these numbers shall be added and separately reported the following, if greater than, or equal to, zero:

(A) All empty postfilled aluminum, glass, and plastic food or drink packaging materials sold in the state, returned for recycling, and reported by weight to the department which do not have a refund value less the number specified in subparagraph (B).

(B) The number of beverage containers which comprise the first five percentage points of the redemption rate without including the empty postfilled aluminum, glass, and plastic food or drink packaging materials sold in the state, returned for recycling and reported by weight to the department which do not have a refund value.

(3) An aluminum beverage container redemption rate, the numerator of which shall be the number of empty aluminum beverage containers returned, including refillable aluminum beverage containers and empty postfilled aluminum food or drink packaging material included in paragraph (2), and the denominator of which shall be the number of aluminum beverage containers sold in this state.

(4) An aluminum beverage container recycling rate, the numerator of which shall be the number of empty aluminum beverage containers returned for recycling, including refillable aluminum beverage containers, and the denominator of which shall be the number of aluminum beverage containers sold in this state.

(5) A nonaluminum metal beverage container redemption rate, the numerator of which shall be the number of empty nonaluminum metal beverage containers returned, and the denominator of which shall be the number of nonaluminum metal beverage containers sold in this state.

(6) A nonaluminum metal beverage container recycling rate, the numerator of which shall be the number of empty nonaluminum beverage containers returned for recycling, including refillable nonaluminum metal beverage containers, and the denominator of which shall be the number of nonaluminum metal beverage containers sold in this state.

(7) A glass beverage container redemption rate, the numerator of

which shall be the number of empty glass beverage containers returned, including refillable glass beverage containers and empty postfilled food or drink packaging materials included in paragraph (2), and the denominator of which shall be the number of glass beverage containers sold in this state.

(8) A glass beverage container recycling rate, the numerator of which shall be the number of empty glass beverage containers returned for recycling, including refillable glass beverage containers, and the denominator of which shall be the number of glass beverage containers sold in this state.

(9) A plastic beverage container redemption rate, the numerator of which shall be the number of empty plastic beverage containers returned, including refillable plastic beverage containers and empty postfilled food or drink packaging materials included in paragraph (2), and the denominator of which shall be the number of plastic beverage containers sold in this state.

(10) A plastic beverage container recycling rate, the numerator of which shall be the number of empty plastic beverage containers returned for recycling, including refillable plastic beverage containers, and the denominator of which shall be the number of plastic beverage containers sold in this state.

(11) A redemption rate for other beverage containers, the numerator of which shall be the number of empty beverage containers other than those containers specified in paragraphs (1) to (10), inclusive, returned, and the denominator of which shall be the number of beverage containers, other than those containers specified in paragraphs (1) to (10), inclusive, sold in this state.

(12) A recycling rate for other beverage containers, the numerator of which shall be the number of empty beverage containers other than those containers specified in paragraphs (1) to (10), inclusive, returned for recycling, and the denominator of which shall be the number of beverage containers, other than those containers specified in paragraphs (1) to (10), inclusive, sold in this state.

(13) The department may define categories of other beverage containers, and report a redemption rate and a recycling rate for each such category of other beverage containers.

(14) The volumes of materials collected from certified recycling centers, by city or county, as requested by the city or county, if the reporting is consistent with the procedures established pursuant to Section 14554 to protect proprietary information.

(15) For reporting periods commencing prior to January 1, 1993, the amount of convenience incentive payments paid to certified recycling centers in each county and, for reporting periods commencing on and after January 1, 1993, the amount of handling fees paid to certified recycling centers in each county.

(16) For reporting periods commencing prior to January 1, 1993, a listing of any convenience incentive payment amounts each convenience zone has received and, for reporting periods

commencing on and after January 1, 1993, the amount of handling fees each convenience zone has received.

(b) The department shall determine the manner of collecting the information for the reports specified in subdivision (a), including establishing procedures, to protect any proprietary information concerning the sales and purchases.

SEC. 5. Section 14585 of the Public Resources Code is amended to read:

14585. (a) The department shall adopt guidelines and methods for paying handling fees to supermarket sites to provide an incentive for the redemption of empty beverage containers in convenience zones. The guidelines shall include, but not be limited to, all of the following:

(1) Handling fees shall be paid on a monthly basis, in the form and manner adopted by the department. The department shall require that claims for the handling fee be filed with the department not later than the first day of the second month following the month for which the handling fee is claimed as a condition of receiving any handling fee.

(2) To be eligible for any handling fee, a supermarket site recycling center shall redeem, at a minimum, 45,000 containers during the calendar month a handling fee is claimed for the period which commences on January 1, 1993, and which ends on December 31, 1993.

(3) To be eligible for any handling fee, a supermarket site recycling center shall redeem, at a minimum, 60,000 containers during the calendar month a handling fee is claimed, on or after January 1, 1994.

(4) A beverage container with a capacity of 24 fluid ounces or more shall be considered as two beverage containers for purposes of determining the eligibility percentage, any handling fee calculations, and payments.

(5) The department shall determine the number of eligible containers per site for which a handling fee will be paid as follows:

(A) The total combined annual volume of redeemed glass and plastic beverage containers, for the period July 1 through June 30 of each year, shall be divided by the total annual volume of all redeemed beverage containers for the same period. The quotient, plus one additional percentage point as an incentive, shall be used as the eligibility percentage for the calendar year immediately following the year in which the calculation was made.

(B) Each supermarket site's combined monthly volume of glass and plastic beverage containers shall be divided by the site's total monthly volume of all empty beverage container types. If the quotient is equal to, or more than, the eligibility percentage determined in subparagraph (A), the total monthly volume of the site shall be the maximum volume which is eligible for a handling fee for that month.

(C) If the quotient is less than the eligibility percentage

determined in subparagraph (A), the department shall divide the volume of glass and plastic beverage containers by the eligibility percentage determined in subparagraph (A). The quotient shall be the maximum volume which is eligible for a handling fee for that month.

(6) The department shall pay a handling fee of 1.7 cents ($0.017) per eligible beverage container, as determined pursuant to paragraph (5).

(7) Notwithstanding paragraph (5), the total handling fee payment to a supermarket site shall not exceed two thousand three hundred dollars ($2,300) per month.

(8) If the eligible volume in any given month would result in handling fee payments which exceed the allocation of funds for that month, as provided in subdivision (b), sites with higher eligible monthly volumes shall receive handling fees for their entire eligible monthly volume before sites with lower eligible monthly volumes receive any handling fees.

(b) The department may allocate the eighteen million five hundred thousand dollars ($18,500,000) authorized for expenditure for the payment of handling fees pursuant to subdivision (b) of Section 14581 on a monthly basis and may carry over any unexpended monthly allocation to a subsequent month or months. However, unexpended monthly allocations shall not be carried over to a subsequent fiscal year for the purpose of paying handling fees but may be carried over for any other purpose pursuant to Section 14581.

(c) The department shall not make handling fee payments to more than one certified recycling center in a convenience zone. When two or more convenience zones overlap by more than one-half mile, the department shall offer a single handling fee payment to cover the affected convenience zones. This handling fee payment shall not be split between the affected zones. The department shall stop making handling fee payments if another recycling center certifies to operate within the convenience zone without receiving payments pursuant to this section, if the department monitors the performance of the other recycling center for 60 days and determines that the recycling center is in compliance with this division. Any recycling center that locates in a convenience zone, thereby causing a preexisting recycling center to become ineligible to receive handling fee payments, is ineligible to receive any handling fee payments in that convenience zone.

(d) The department may require the operator of a supermarket site receiving handling fees to maintain records for each location where beverage containers are redeemed, and may require the supermarket site to take any other action necessary for the department to determine that the supermarket site does not receive an excessive handling fee.

(e) The department may determine and utilize a standard container per pound rate, for each material type, for the purpose of

calculating volumes and making handling fee payments.

(f) This section shall become operative on January 1, 1993.

(g) The changes made to this section at the 1993–94 Regular Session shall apply, notwithstanding subdivision (b), to all payments of handling fees not yet approved by the department as of the effective date of the changes made to this section at the 1993–94 Regular Session. In determining the eligibility percentage for handling fee payments during 1993, calculated pursuant to subparagraph (A) of paragraph (5), the department shall use data for the 12-month period ending June 30, 1992.

(h) 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. 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:

In order to receive information regarding handling fees as soon as possible, thereby providing necessary information on the administration of the beverage redemption program and protecting public health and safety and the environment, it is necessary that this act take effect immediately.

CHAPTER 1259

An act to amend Sections 14515, 14518, 14525, 14549.6, 14550, 14551, and 14575 of, and to repeal Section 14514 of, the Public Resources Code, relating to beverage containers, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 14514 of the Public Resources Code is repealed.

SEC. 2. Section 14515 of the Public Resources Code is amended to read:

14515. "Other beverage container" means a beverage container which has a body consisting of metal, glass, plastic, other materials, or a combination of these, but which is not an aluminum, bimetal, glass, or plastic beverage container.

SEC. 3. Section 14518 of the Public Resources Code is amended to read:

14518. "Processor" means any person, including a scrap dealer, certified by the department who purchases empty aluminum

beverage containers, bimetal beverage containers, glass beverage containers, plastic beverage containers, or any other beverage containers, including any one or more of those beverage containers, which have a refund value established pursuant to this division, from recycling centers in this state for recycling, or, if the container is not recyclable, not for recycling, and who cancels, or who certifies to the department in a form prescribed by the department the cancellation of, the refund value of these empty beverage containers by processing empty beverage containers, in any manner which the department may prescribe. However, the department shall not take any action regulating scrap dealers or recycling centers who are processors or recycling centers unless authorized by and pursuant to the goals of this division.

SEC. 4. Section 14525 of the Public Resources Code is amended to read:

14525. "Refillable beverage container" means any aluminum beverage container, bimetal beverage container, glass beverage container, plastic beverage container, or other beverage container, holding 150 fluid ounces or less of beverage, which has a minimum deposit of three cents ($0.03), and which ordinarily would be returned to the manufacturer to be refilled and resold.

SEC. 5. Section 14549.6 of the Public Resources Code is amended to read:

14549.6. (a) For the 1993–94 and 1994–95 fiscal years only, the department shall, subject to the availability of funds, make payments, the total of which shall not exceed one million dollars ($1,000,000) per fiscal year, to local agencies with curbside programs, pursuant to Section 14509.5. The payments shall be for each container collected by the curbside programs and properly reported to the department by processors, based upon all of the following:

(1) The payment amount shall be calculated based upon the volume of beverage containers collected by curbside programs and reported to the department by processors during the reporting periods of October 1, 1993, to December 31, 1993, and October 1, 1994, to December 1, 1994, inclusive.

(2) The per-container rate shall be calculated by dividing the total volume of beverage containers collected, as determined pursuant to paragraph (1), into the sum of two million dollars ($2,000,000).

(3) The amount to be paid to each local agency with a curbside program shall be based upon the per-container rate, calculated pursuant to paragraph (2), multiplied by the curbside program's total reported beverage container volume during the period specified in paragraph (1).

(4) The amounts paid pursuant to this subdivision shall be expended by local agencies with curbside programs only for activities related to beverage container recycling.

(5) The department shall disburse payments pursuant to this subdivision no sooner than the 11th month of the fiscal year for which the payments are being made, subject to the availability of funds.

(b) The department shall conduct a study, in cooperation with local governments operating curbside programs, on alternative methods of funding for, and expansion of, curbside programs. The study shall include, but not be limited to, the costs of recycling by curbside programs, a summary of local general funds, enterprise funds, or other funds used to support curbside programs, and the average monthly volumes per household collected by curbside programs of the following material types: aluminum, glass, PET, newsprint, bimetal, mixed waste paper, and corrugated cardboard. Additionally, the study shall include an analysis of the revenue impact of expanding the application of this division to include all food and beverage containers. The analysis shall summarize the impact on a statewide basis as well as on an individual county basis. On or before April 1, 1994, the department shall report the results of the study, together with findings and recommendations, to the chairperson of the Assembly Natural Resources Committee and the chairperson of the Senate Natural Resources and Wildlife Committee.

SEC. 6. Section 14550 of the Public Resources Code is amended to read:

14550. (a) Every processor shall report to the department for each month beginning October 1, 1987, the amount of empty beverage containers, by material type and weight of container or material, excluding refillable beverage containers, received from recycling centers for recycling, and the amount received not for recycling. Every processor shall also report to the department for each month the amount of other postfilled aluminum, glass, and plastic food and drink packaging materials sold filled to consumers in this state and returned for recycling. These reports shall be submitted within 10 days after each month, in the form and manner which the department may prescribe.

(b) Every distributor who sells or offers for sale in this state beverages in aluminum beverage containers, bimetal beverage containers, glass beverage containers, plastic beverage containers, or other beverage containers, including refillable beverage containers of these types, shall report to the department for each month beginning August 1, 1987, and for each month thereafter, the number of beverages sold in these beverage containers in this state which are labeled pursuant to Section 14561, by material type and size and weight of container or any other method as the department may prescribe. These reports shall be submitted by the day when payment is due, consistent with the applicable payment schedule specified in subdivision (a) or (b) of Section 14574, in the form and manner which the department may prescribe.

(c) Every distributor who sells or offers for sale in this state beverages in refillable beverage containers and who pays a refund value to distributors, dealers, or consumers who return these containers for refilling, shall report to the department for each month beginning August 1, 1987, and for each month thereafter, the

number of these beverage containers returned empty to be refilled, by material type and size of container or any other method which the department may prescribe. These reports shall be submitted by the day when payment is due, consistent with the schedule specified in subdivision (a) of Section 14574, notwithstanding subdivision (b) of Section 14574, in the form and manner which the department may prescribe.

SEC. 7. Section 14551 of the Public Resources Code is amended to read:

14551. (a) The department shall establish reporting periods for the reporting of redemption rates and recycling rates, and each reporting period shall be six months, except that the first reporting period shall be the three-month period from October 1, 1987, to December 31, 1987. The department shall determine all of the following for each reporting period and shall issue a report on its determinations, within 70 days of the end of each reporting period:

(1) Sales of beverages in aluminum beverage containers, bimetal beverage containers, glass beverage containers, plastic beverage containers, and other beverage containers in this state, including refillable beverage containers.

(2) Returns for recycling, and returns not for recycling, of empty aluminum beverage containers, bimetal beverage containers, glass beverage containers, plastic beverage containers, and other beverage containers in this state, including refillable beverage containers returned to distributors pursuant to Section 14572. These numbers shall be calculated using the average current weights of beverage containers, as determined and reported by the department. To these numbers shall be added and separately reported the following, if greater than, or equal to, zero:

(A) All empty postfilled aluminum, glass, and plastic food or drink packaging materials sold in the state, returned for recycling, and reported by weight to the department which do not have a refund value less the number specified in subparagraph (B).

(B) The number of beverage containers which comprise the first five percentage points of the redemption rate without including the empty postfilled aluminum, glass, and plastic food or drink packaging materials sold in the state, returned for recycling and reported by weight to the department which do not have a refund value.

(3) An aluminum beverage container redemption rate, the numerator of which shall be the number of empty aluminum beverage containers returned, including refillable aluminum beverage containers and empty postfilled aluminum food or drink packaging material included in paragraph (2), and the denominator of which shall be the number of aluminum beverage containers sold in this state.

(4) An aluminum beverage container recycling rate, the numerator of which shall be the number of empty aluminum beverage containers returned for recycling, including refillable aluminum beverage containers, and the denominator of which shall

be the number of aluminum beverage containers sold in this state.

(5) A bimetal beverage container redemption rate, the numerator of which shall be the number of empty bimetal beverage containers returned, and the denominator of which shall be the number of bimetal beverage containers sold in this state.

(6) A bimetal beverage container recycling rate, the numerator of which shall be the number of empty bimetal containers returned for recycling, including refillable bimetal beverage containers, and the denominator of which shall be the number of bimetal beverage containers sold in this state.

(7) A glass beverage container redemption rate, the numerator of which shall be the number of empty glass beverage containers returned, including refillable glass beverage containers and empty postfilled food or drink packaging materials included in paragraph (2), and the denominator of which shall be the number of glass beverage containers sold in this state.

(8) A glass beverage container recycling rate, the numerator of which shall be the number of empty glass beverage containers returned for recycling, including refillable glass beverage containers, and the denominator of which shall be the number of glass beverage containers sold in this state.

(9) A plastic beverage container redemption rate, the numerator of which shall be the number of empty plastic beverage containers returned, including refillable plastic beverage containers and empty postfilled food or drink packaging materials included in paragraph (2), and the denominator of which shall be the number of plastic beverage containers sold in this state.

(10) A plastic beverage container recycling rate, the numerator of which shall be the number of empty plastic beverage containers returned for recycling, including refillable plastic beverage containers, and the denominator of which shall be the number of plastic beverage containers sold in this state.

(11) A redemption rate for other beverage containers, the numerator of which shall be the number of empty beverage containers other than those containers specified in paragraphs (1) to (10), inclusive, returned, and the denominator of which shall be the number of beverage containers, other than those containers specified in paragraphs (1) to (10), inclusive, sold in this state.

(12) A recycling rate for other beverage containers, the numerator of which shall be the number of empty beverage containers other than those containers specified in paragraphs (1) to (10), inclusive, returned for recycling, and the denominator of which shall be the number of beverage containers, other than those containers specified in paragraphs (1) to (10), inclusive, sold in this state.

(13) The department may define categories of other beverage containers, and report a redemption rate and a recycling rate for each such category of other beverage containers.

(14) The volumes of materials collected from certified recycling

centers, by city or county, as requested by the city or county, if the reporting is consistent with the procedures established pursuant to Section 14554 to protect proprietary information.

(15) For reporting periods commencing before January 1, 1993, the amount of convenience incentive payments paid to certified recycling centers in each county.

(16) For reporting periods commencing before January 1, 1993, a listing of any convenience incentive payment amounts each convenience zone has received.

(b) The department shall determine the manner of collecting the information for the reports specified in subdivision (a), including establishing procedures, to protect any proprietary information concerning the sales and purchases.

SEC. 8. Section 14575 of the Public Resources Code, as amended by Section 18 of Chapter 1266 of the Statutes of 1992, is amended to read:

14575. (a) Except as provided in subdivision (b), if any type of empty beverage container with a refund value established pursuant to Section 14560 has a scrap value less than the sum of paragraphs (1) and (2), the department shall establish a processing fee for the container, by the type of the material of the container, at least equal to the difference between the scrap value offered by a statistically significant sample of processors, and in the case of glass containers, beneficiating processors only, for each container sold by the beverage manufacturer, and the sum of both of the following:

(1) The actual cost for certified recycling centers, which have the lowest costs per ton on a per-site basis and which, when taken together, account for not less than 75 percent of certified recycling centers, in the year in which the processing fee is calculated or recalculated, of receiving, handling, processing, storing, transporting, and maintaining equipment for each container sold for recycling or, only if the container is not recyclable, for disposal, calculated pursuant to subdivision (c).

(2) A reasonable financial return for recycling centers, calculated pursuant to subdivision (c).

(b) (1) Notwithstanding subdivision (a), the processing fee established by the department on January 1, 1993, shall be adjusted annually to reflect changes in the cost-of-living, as measured by the Department of Labor or a successor agency of the United States government.

(2) Notwithstanding paragraph (1), any processing fee established by the department on January 1, 1993, pursuant to paragraphs (1) and (2) of subdivision (a), for plastic beverage containers, shall use a recycling cost which is not less than eight hundred seven dollars ($807) per ton.

(c) On or before January 1, 1996, and on or before January 1 annually thereafter, the department shall recalculate weighted statewide average values for the amounts specified in paragraphs (1) and (2) of subdivision (a) for each type of container material sold

and a new processing fee, which shall be effective on that same date.

(d) A processing fee established pursuant to this section shall be based upon all of the following:

(1) The average scrap values paid by processors, or in the case of glass containers, by beneficiating processors only, during the calendar year directly preceding the year in which the processing fee is calculated.

(2) The data indicating the calendar year volumes of beverage containers collected by certified recycling centers.

(3) The cost data for certified recycling centers for the January 1, 1992, calculation, as modified pursuant to paragraph (1) of subdivision (a) for the January 1, 1993, calculation, and after January 1, 1996, the costs calculated pursuant to paragraph (1) of subdivision (a) for the calendar year preceding the year in which the processing fee is calculated.

(e) Once the annual per container fee has been determined utilizing the calculations made pursuant to subdivisions (a), (b), (c), and (d), the actual processing fee paid by beverage manufacturers, subject to modification pursuant to subdivision (f), shall be the per-container fee multiplied by the sum of the following:

(1) An estimate of the number of containers on which the processing fee was paid to recyclers during the previous calendar year divided by an estimate of the number of nonrefillable beverage containers sold or transferred to a distributor or dealer during the previous calendar year, based on the latest available data.

(2) Five percentage points, except that whenever a surplus of unexpended money exists in the fund sufficient to equal the estimate of the previous three months expenditures of processing fees for each material type as determined by the department, then zero percentage points shall be used.

(f) Every six months, or more frequently, but not more frequently than every 90 days, as determined to be necessary by the department, the department may make either an upward or downward adjustment of a processing fee established pursuant to this section if both of the following occur:

(1) The department determines that the average statewide scrap values paid by processors, or in the case of glass containers, by beneficiating processors only, are 10 percent more or less, for a 30-day period, than the average scrap values used as the basis for the processing fee currently in effect.

(2) The department determines that adjusting the processing fee is necessary to further the objectives of this division.

(g) The calculations of the statewide weighted average values and processing fee made pursuant to subdivision (c) shall be based on audited surveys of the costs specified in subdivision (a) at existing certified recycling centers and reverse vending machines, with standardized modifications for transportation distances and factors specific to a particular region, as determined by the department, and, if the container is not recyclable, local disposal fees. The

processing fee shall be calculated in a manner which furthers the purposes of this division and the fee shall be sufficient to establish sufficient recycling locations and processors to achieve the goals established pursuant to subdivision (c) of Section 14501 and Section 14571. The department shall submit to the Governor and the Legislature, as part of the annual report required by Section 14542, a summary of the fluctuations of costs and scrap values necessitating the recalculation of the processing fee. The report shall also highlight changes in markets, new technologies, and other business and economic factors. The report shall include a description of the average per container statewide costs of recycling beverage containers, by each material type, for the following recycling systems, including a description of any assumptions used to allocate undifferentiated costs among material types, and a brief statement of the reason for the adoption of these assumptions:

(1) Automated recycling centers.

(2) Staffed recycling centers.

(3) Recycling centers established since September 29, 1988.

(4) Recycling centers established prior to September 29, 1988.

(5) Nonprofit dropoff programs.

(6) Curbside recycling programs.

(h) (1) Except as provided in paragraph (2), every beverage manufacturer shall pay to the department the applicable processing fee for each container sold or transferred to a distributor or dealer within 40 days of the sale in the form and in the manner which the department may prescribe.

(2) (A) Notwithstanding Section 14506, with respect to the payment of processing fees for beer and other malt beverages, the beverage manufacturer shall be deemed to be the person or entity named on the certificate of compliance issued pursuant to Section 23671 of the Business and Professions Code. If the department is unable to collect the processing fee from the person or entity named on the certificate of compliance, the department shall give written notice by certified mail to that person or entity. The notice shall state that the processing fee shall be remitted in full within 30 days of issuance of the notice or the person or entity shall not be permitted to offer that beverage brand for sale within the state. If the person or entity fails to remit the processing fee within 30 days of issuance of the notice, the department shall notify the Department of Alcoholic Beverage Control that the certificate holder has failed to comply, and the Department of Alcoholic Beverage Control shall prohibit the offering or sale of that beverage brand within the state.

(B) The department shall enter into a contract with the Department of Alcoholic Beverage Control, pursuant to Section 14536.5, concerning the implementation of this paragraph, which shall include a provision reimbursing the Department of Alcoholic Beverage Control for its costs incurred in implementing this paragraph.

(3) The department shall pay the processing fees collected on

redeemed containers to processors, in the same manner as it pays refund values pursuant to Sections 14573 and 14573.5. The department shall pay the processing fees collected on unredeemed containers into the fund. The processor shall pay the recycling center the entire processing fee representing the actual cost and financial return incurred by the recycling center, as specified in subdivision (a).

(i) When assessing processing fees pursuant to subdivision (c), the department shall assess the processing fee on each container sold, as provided in subdivision (e), by the type of material of the container.

(j) The container manufacturer, or a designated agent, shall pay to, or credit, the account of the beverage manufacturer in an amount equal to the processing fee.

(k) Prior to the recalculation of the processing fee made pursuant to subdivision (c), the department shall do both of the following:

(1) Consult with container manufacturers, beverage manufacturers, operators of recycling centers and processing facilities, and other interested parties concerning the size of the statewide sample, appropriate sampling methodologies, and other topics of concern related to the imposition of the processing fee.

(2) At least 60 days prior to the effective date of any new processing fee, hold a public hearing, after giving notice, to make available to the public and affected parties the department's proposed recalculation of the processing fee.

(*l*) 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. 9. Section 14575 of the Public Resources Code, as added by Section 19 of Chapter 1266 of the Statutes of 1992, is amended to read:

14575. (a) If any type of empty beverage container with a refund value established pursuant to Section 14560 has a scrap value less than the sum of paragraphs (1) and (2), the department shall establish a processing fee for the container, by the type of the material of the container, that is at least equal to the difference between the scrap value offered by a statistically significant sample of container manufacturers, beverage manufacturers, processors, or willing purchasers, for each container sold by the beverage manufacturer, and the sum of both of the following:

(1) The actual cost for certified recycling centers of receiving, handling, processing, storing, transporting, and maintaining equipment for each container sold for recycling or, only if the container is not recyclable, for disposal, calculated pursuant to subdivision (c).

(2) A reasonable financial return for recycling centers and processors, calculated pursuant to subdivision (b).

(b) On or before January 1, 1996, or on the earliest practicable date thereafter, and on or before January 1 annually thereafter, the department shall calculate weighted statewide average values for the amounts specified in paragraphs (1) and (2) of subdivision (a)

for each type of container material sold and a new processing fee, which shall be effective on that same date.

(c) A processing fee established pursuant to this section shall be based upon all of the following:

(1) The average scrap values paid by willing purchasers during the 1990 calendar year for the initial calculation and the average scrap values paid by willing purchasers during the calendar year directly preceding the year in which the processing fee is calculated for any subsequent calculation.

(2) The latest available data indicating the volumes of beverage containers collected by certified processors and recycling centers.

(3) The actual recycling costs for certified recycling centers and processors, as determined pursuant to paragraph (1) of subdivision (a) for the 1989 calendar year for the initial calculation, and for the second calendar year preceding the year in which the processing fee is calculated for any subsequent calculation.

(d) Every six months, or more frequently as determined to be necessary by the department, the department may adjust a processing fee established pursuant to this section if both of the following occur:

(1) The department determines that the average statewide scrap values paid by willing purchasers are less than the average scrap values used as the basis for the processing fee calculation.

(2) The department determines that adjusting the processing fee is necessary to further the objectives of this division.

(e) The calculations of the statewide weighted average values and processing fee made pursuant to subdivision (b) shall be based on audited surveys of the costs specified in subdivision (a) at existing certified recycling centers, reverse vending machines, and processors, with standardized modifications for transportation distances and factors specific to a particular region, as determined by the department, and, if the container is not recyclable, local disposal fees. The processing fee shall be calculated in a manner which furthers the purposes of this division and the fee shall be sufficient to establish sufficient recycling locations and processors to achieve the goals established pursuant to subdivision (c) of Section 14501 and Section 14571. The department shall submit to the Governor and the Legislature, as part of the annual report required by Section 14542, a summary of the fluctuations of costs and scrap values necessitating the recalculation of the processing fee. The report shall also highlight changes in markets, new technologies, and other business and economic factors. The report shall include a description of the average per container statewide costs of recycling beverage containers, by each material type, for the following recycling systems, including a description of any assumptions used to allocate undifferentiated costs among material types, and a brief statement of the reason for the adoption of these assumptions:

(1) Automated recycling centers.

(2) Staffed recycling centers.

(3) Recycling centers established since September 29, 1988.

(4) Recycling centers established prior to September 29, 1988.

(5) Recyclers receiving convenience incentive payments, as feasible.

(6) Nonprofit dropoff programs.

(7) Curbside recycling programs.

(f) (1) Except as provided in paragraph (2), every beverage manufacturer shall pay to the department the applicable processing fee for each container sold or transferred to a distributor or dealer within 40 days of the sale in the form and in the manner which the department may prescribe.

(2) (A) Notwithstanding Section 14506, with respect to the payment of processing fees for beer and other malt beverages, the beverage manufacturer shall be deemed to be the person or entity named on the certificate of compliance issued pursuant to Section 23671 of the Business and Professions Code. If the department is unable to collect the processing fee from the person or entity named on the certificate of compliance, the department shall give written notice by certified mail to that person or entity. The notice shall state that the processing fee shall be remitted in full within 30 days of issuance of the notice or the person or entity shall not be permitted to offer that beverage brand for sale within the state. If the person or entity fails to remit the processing fee within 30 days of issuance of the notice, the department shall notify the Department of Alcoholic Beverage Control that the certificate holder has failed to comply, and the Department of Alcoholic Beverage Control shall prohibit the offering or sale of that beverage brand within the state.

(B) The department shall enter into a contract with the Department of Alcoholic Beverage Control, pursuant to Section 14536.5, concerning the implementation of this paragraph, which shall include a provision reimbursing the Department of Alcoholic Beverage Control for its costs incurred in implementing this paragraph.

(3) The department shall pay the processing fees collected on redeemed containers to processors, in the same manner as it pays refund values pursuant to Sections 14573 and 14573.5. The department shall pay the processing fees collected on unredeemed containers into the fund. The department shall not use processing fees collected on unredeemed beverage containers to pay all or a portion of the processing costs determined pursuant to subdivision (a). The processor shall pay the recycling center that portion of the processing fee representing the actual cost and financial return incurred by the recycling center, as specified in subdivision (a).

(g) When assessing processing fees pursuant to subdivision (b), the department shall assess the processing fee on each container sold, by the type of material of the container, assuming that every container sold will be redeemed for recycling, whether or not the container is actually recycled. When calculating and assessing processing fees, the department also shall not assume that

redemption bonuses will be kept by recycling centers or locations.

(h) The container manufacturer, or a designated agent, shall pay to, or credit, the account of the beverage manufacturer in an amount equal to the processing fee.

(i) This section shall become operative January 1, 1996.

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.

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 increase the redemption of beverage containers and ensure the continuation of recycling operations, thereby protecting public health and safety and the environment, it is necessary that this act take effect immediately.

CHAPTER 1260

An act to amend Sections 14550, 14574, and 14575 of the Public Resources Code, relating to beverage containers.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 14550 of the Public Resources Code is amended to read:

14550. (a) Every processor shall report to the department for each month the amount of empty beverage containers, by material type and weight of container or material, excluding refillable beverage containers, received from recycling centers for recycling, and the amount received not for recycling. Every processor shall also report to the department for each month the amount of other postfilled aluminum, glass, and plastic food and drink packaging materials sold filled to consumers in this state and returned for recycling. These reports shall be submitted within 10 days after each month, in the form and manner which the department may prescribe.

(b) Every distributor who sells or offers for sale in this state

beverages in aluminum beverage containers, nonaluminum metal beverage containers, glass beverage containers, plastic beverage containers, or other beverage containers, including refillable beverage containers of these types, shall report to the department for each month the number of beverages sold in these beverage containers in this state which are labeled pursuant to Section 14561, by material type and size and weight of container or any other method as the department may prescribe. These reports shall be submitted by the day when payment is due, consistent with the applicable payment schedule specified in subdivision (a) of Section 14574, in the form and manner which the department may prescribe.

(c) Every distributor who sells or offers for sale in this state beverages in refillable beverage containers and who pays a refund value to distributors, dealers, or consumers who return these containers for refilling, shall report to the department for each month the number of these beverage containers returned empty to be refilled, by material type and size of container or any other method which the department may prescribe. These reports shall be submitted by the day when payment is due, consistent with the schedule specified in subdivision (a) of Section 14574, in the form and manner which the department may prescribe.

(d) Notwithstanding subdivision (b), a distributor who elects to make an annual payment pursuant to subdivision (b) of Section 14574 may, upon the approval of the department, submit the reports required by this section annually to the department. The reports shall accompany the annual payment submitted pursuant to Section 14574.

SEC. 2. Section 14574 of the Public Resources Code is amended to read:

14574. (a) A distributor of beverage containers shall pay to the department the redemption payment for every beverage container, other than a refillable beverage container, sold or transferred to a dealer, less one-half of 1 percent for the distributor's administrative costs.

(1) Except as provided in paragraph (2), the payment shall be made within 40 days of any sale, or in the form and manner which the department may prescribe.

(2) The payment made by a distributor of beer and other malt beverages shall be made not later than the first day of the second month following the sale.

(b) (1) Notwithstanding subdivision (a), a distributor may, upon the approval of the department, elect to make a single annual payment of redemption payments, if the distributor's projected redemption payment for a calendar year totals less than ten thousand dollars ($10,000).

(2) An annual redemption payment made pursuant to this subdivision is due and payable on or before February 1 for every beverage container sold or transferred by the distributor to a dealer in the previous calendar year.

(3) A distributor shall notify the department of its intent to make an annual redemption payment pursuant to this subdivision on or before January 31 of the calendar year preceding the year in which the payment will be due.

SEC. 3. Section 14575 of the Public Resources Code, as amended by Section 18 of Chapter 1266 of the Statutes of 1992, is amended to read:

14575. (a) Except as provided in subdivision (b), if any type of empty beverage container with a refund value established pursuant to Section 14560 has a scrap value less than the sum of paragraphs (1) and (2), the department shall establish a processing fee for the container, by the type of the material of the container, at least equal to the difference between the scrap value offered by a statistically significant sample of processors, and in the case of glass containers, beneficiating processors only, for each container sold by the beverage manufacturer, and the sum of both of the following:

(1) The actual cost for certified recycling centers, which have the lowest costs per ton on a per-site basis and which, when taken together, account for not less than 75 percent of certified recycling centers, in the year in which the processing fee is calculated or recalculated, of receiving, handling, processing, storing, transporting, and maintaining equipment for each container sold for recycling or, only if the container is not recyclable, for disposal, calculated pursuant to subdivision (c).

(2) A reasonable financial return for recycling centers, calculated pursuant to subdivision (c).

(b) (1) Notwithstanding subdivision (a), the processing fee established by the department on January 1, 1993, shall be adjusted annually to reflect changes in the cost-of-living, as measured by the Department of Labor or a successor agency of the United States government.

(2) Notwithstanding paragraph (1), any processing fee established by the department on January 1, 1993, pursuant to paragraphs (1) and (2) of subdivision (a), for plastic beverage containers, shall use a recycling cost which is not less than eight hundred seven dollars ($807) per ton.

(c) Prior to January 1, 1996, the department shall recalculate weighted statewide average values for the amounts specified in paragraphs (1) and (2) of subdivision (a) for each type of container material sold and a new processing fee, which shall be effective on that same date.

(d) A processing fee established pursuant to this section shall be based upon all of the following:

(1) The average scrap values paid by processors only, or, for glass containers, beneficiating processors only, during the calendar year directly preceding the year in which the processing fee is calculated.

(2) The data indicating the calendar year volumes of beverage containers collected by certified recycling centers.

(3) The cost data for certified recycling centers for the January 1,

1992, calculation, as modified pursuant to paragraph (1) of subdivision (a) for the January 1, 1993, calculation.

(e) Once the annual per container fee has been determined utilizing the calculations made pursuant to subdivisions (a), (b), (c), and (d), the actual processing fee paid by beverage manufacturers, subject to modification pursuant to subdivision (f), shall be the per-container fee multiplied by the sum of the following:

(1) An estimate of the number of containers on which the processing fee was paid to recyclers during the previous calendar year divided by an estimate of the number of nonrefillable beverage containers sold or transferred to a distributor or dealer during the previous calendar year, based on the latest available data.

(2) Five percentage points (0.05), except that whenever a surplus of unexpended money exists in the fund sufficient to equal the estimate of the previous three months expenditures of processing fees for each material type as determined by the department, then zero percentage points (0.00) shall be used.

(f) Every six months, or more frequently, but not more frequently than every 90 days, as determined to be necessary by the department, the department may make either an upward or downward adjustment of a processing fee established pursuant to this section if both of the following occur:

(1) The department determines that the average statewide scrap values paid by processors or beneficiating processors are 10 percent more or less, for a 30-day period, than the average scrap values used as the basis for the processing fee currently in effect.

(2) The department determines that adjusting the processing fee is necessary to further the objectives of this division.

(g) The calculations of the statewide weighted average values and processing fee made pursuant to subdivision (c) shall be based on audited surveys of the costs specified in subdivision (a) at existing certified recycling centers and reverse vending machines, with standardized modifications for transportation distances and factors specific to a particular region, as determined by the department, and, if the container is not recyclable, local disposal fees. The processing fee shall be calculated in a manner which furthers the purposes of this division and the fee shall be sufficient to establish sufficient recycling locations and processors to achieve the goals established pursuant to subdivision (c) of Section 14501 and Section 14571. The department shall submit to the Governor and the Legislature, as part of the annual report required by Section 14542, a summary of the fluctuations of costs and scrap values necessitating the recalculation of the processing fee. The report shall also highlight changes in markets, new technologies, and other business and economic factors. The report shall include a description of the average per container statewide costs of recycling beverage containers, by each material type, for the following recycling systems, including a description of any assumptions used to allocate undifferentiated costs among material types, and a brief statement

of the reason for the adoption of these assumptions:

(1) Automated recycling centers.

(2) Staffed recycling centers.

(3) Recycling centers established since September 29, 1988.

(4) Recycling centers established prior to September 29, 1988.

(5) Nonprofit dropoff programs.

(6) Curbside recycling programs.

(h) (1) Except as provided in paragraphs (2) and (3), every beverage manufacturer shall pay to the department the applicable processing fee for each container sold or transferred to a distributor or dealer within 40 days of the sale in the form and in the manner which the department may prescribe.

(2) (A) Notwithstanding Section 14506, with respect to the payment of processing fees for beer and other malt beverages, the beverage manufacturer shall be deemed to be the person or entity named on the certificate of compliance issued pursuant to Section 23671 of the Business and Professions Code. If the department is unable to collect the processing fee from the person or entity named on the certificate of compliance, the department shall give written notice by certified mail to that person or entity. The notice shall state that the processing fee shall be remitted in full within 30 days of issuance of the notice or the person or entity shall not be permitted to offer that beverage brand for sale within the state. If the person or entity fails to remit the processing fee within 30 days of issuance of the notice, the department shall notify the Department of Alcoholic Beverage Control that the certificate holder has failed to comply, and the Department of Alcoholic Beverage Control shall prohibit the offering or sale of that beverage brand within the state.

(B) The department shall enter into a contract with the Department of Alcoholic Beverage Control, pursuant to Section 14536.5, concerning the implementation of this paragraph, which shall include a provision reimbursing the Department of Alcoholic Beverage Control for its costs incurred in implementing this paragraph.

(3) (A) Notwithstanding paragraph (1), a beverage manufacturer may, upon the approval of the department, elect to make a single annual payment of processing fees, if the beverage manufacturer's projected processing fees for a calendar year total less than one thousand dollars ($1,000).

(B) An annual processing fee payment made pursuant to this paragraph is due and payable on or before February 1 for every beverage container sold or transferred by the beverage manufacturer to a distributor or dealer in the previous calendar year.

(C) A beverage manufacturer shall notify the department of its intent to make an annual processing fee payment pursuant to this paragraph on or before January 31 of the calendar year preceding the year in which the payment will be due.

(4) The department shall pay the processing fees collected on redeemed containers to processors, in the same manner as it pays

refund values pursuant to Sections 14573 and 14573.5. The department shall pay the processing fees collected on unredeemed containers into the fund. The processor shall pay the recycling center the entire processing fee representing the actual cost and financial return incurred by the recycling center, as specified in subdivision (a).

(i) When assessing processing fees pursuant to subdivision (c), the department shall assess the processing fee on each container sold, as provided in subdivision (e), by the type of material of the container.

(j) The container manufacturer, or a designated agent, shall pay to, or credit, the account of the beverage manufacturer in an amount equal to the processing fee.

(k) Prior to the January 1, 1996, recalculations of the processing fee, pursuant to this section, the department shall do both of the following:

(1) Consult with container manufacturers, beverage manufacturers, operators of recycling centers and processing facilities, and other interested parties concerning the size of the statewide sample, appropriate sampling methodologies, and other topics of concern related to the imposition of the processing fee.

(2) At least 60 days prior to the effective date of any new processing fee, hold a public hearing, after giving notice, to make available to the public and affected parties the department's proposed recalculation of the processing fee.

(*l*) 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. 4. Section 14575 of the Public Resources Code, as added by Section 19 of Chapter 1266 of the Statutes of 1992, is amended to read:

14575. (a) Except as provided in subdivision (b), if any type of empty beverage container with a refund value established pursuant to Section 14560 has a scrap value less than the sum of paragraphs (1) and (2), the department shall establish a processing fee for the container, by the type of the material of the container, at least equal to the difference between the scrap value offered by a statistically significant sample of container manufacturers, beverage manufacturers, processors, or willing purchasers, for each container sold by the beverage manufacturer, and the sum of both of the following:

(1) The actual cost for certified recycling centers, excluding those recycling centers receiving a convenience incentive payment, and certified processors which did not receive convenience incentive payments in the year in which the processing fee is calculated or recalculated, of receiving, handling, processing, storing, transporting, and maintaining equipment for each container sold for recycling or, only if the container is not recyclable, for disposal, calculated pursuant to subdivision (c).

(2) A reasonable financial return for recycling centers and processors, calculated pursuant to subdivision (c).

(b) Notwithstanding subdivision (a), any processing fee established by the department on or before January 1, 1992, shall use a recycling cost which is equal to or less than the recycling cost calculated by the department on or before January 1, 1991, pursuant to paragraphs (1) and (2) of subdivision (a). In no event shall a recycling cost exceed one thousand one hundred seven dollars ($1,107) per ton.

(c) On January 1, 1996, and annually thereafter, the department shall calculate weighted statewide average values for the amounts specified in paragraphs (1) and (2) of subdivision (a) for each type of container material sold and a new processing fee, which shall be effective on that same date.

(d) A processing fee established pursuant to this section shall be based upon all of the following:

(1) The average scrap values paid by willing purchasers during the 1990 calendar year for the initial calculation and the average scrap values paid by willing purchasers during the calendar year directly preceding the year in which the processing fee is calculated for any subsequent calculation. Any processing fee established by the department on or before January 1, 1992, for glass beverage containers shall not include the average scrap value paid for mixed color cullet by willing purchasers who are not glass container manufacturers.

(2) The latest available data indicating the volumes of beverage containers collected by certified processors and recycling centers.

(3) The actual recycling costs for certified recycling centers and processors, as determined pursuant to paragraph (1) of subdivision (a) for the 1989 calendar year for the initial calculation, and for the second calendar year preceding the year in which the processing fee is calculated for any subsequent calculation.

(e) Every six months, or more frequently as determined to be necessary by the department, the department may adjust a processing fee established pursuant to this section if both of the following occur:

(1) The department determines that the average statewide scrap values paid by willing purchasers are less than the average scrap values used as the basis for the processing fee calculation.

(2) The department determines that adjusting the processing fee is necessary to further the objectives of this division.

(f) The calculations of the statewide weighted average values and processing fee made pursuant to subdivision (c) shall be based on audited surveys of the costs specified in subdivision (a) at existing certified recycling centers, reverse vending machines, and processors, with standardized modifications for transportation distances and factors specific to a particular region, as determined by the department, and, if the container is not recyclable, local disposal fees. The processing fee shall be calculated in a manner which furthers the purposes of this division and the fee shall be sufficient to establish sufficient recycling locations and processors to achieve

the goals established pursuant to subdivision (c) of Section 14501 and Section 14571. Except for the first calculation of a processing fee made pursuant to this section, 60 days prior to the annual calculation of the processing fee, the department shall submit a report to the Chairperson of the Assembly Natural Resources Committee and the Chairperson of the Senate Natural Resources and Wildlife Committee. The report shall include a summary of the fluctuations of costs and scrap values necessitating the recalculation. The report shall also highlight changes in markets, new technologies, and other business and economic factors. The report shall include a description of the average per container statewide costs of recycling beverage containers, by each material type, for the following recycling systems, including a description of any assumptions used to allocate undifferentiated costs among material types, and a brief statement of the reason for the adoption of these assumptions:

(1) Automated recycling centers.

(2) Staffed recycling centers.

(3) Recycling centers established since September 29, 1988.

(4) Recycling centers established prior to September 29, 1988.

(5) Recyclers receiving convenience incentive payments, as feasible.

(6) Nonprofit dropoff programs.

(7) Curbside recycling programs.

(g) (1) Except as provided in paragraphs (2) and (3), every beverage manufacturer shall pay to the department the applicable processing fee for each container sold or transferred to a distributor or dealer within 40 days of the sale in the form and in the manner which the department may prescribe.

(2) (A) Notwithstanding Section 14506, with respect to the payment of processing fees for beer and other malt beverages, the beverage manufacturer shall be deemed to be the person or entity named on the certificate of compliance issued pursuant to Section 23671 of the Business and Professions Code. If the department is unable to collect the processing fee from the person or entity named on the certificate of compliance, the department shall give written notice by certified mail to that person or entity. The notice shall state that the processing fee shall be remitted in full within 30 days of issuance of the notice or the person or entity shall not be permitted to offer that beverage brand for sale within the state. If the person or entity fails to remit the processing fee within 30 days of issuance of the notice, the department shall notify the Department of Alcoholic Beverage Control that the certificate holder has failed to comply, and the Department of Alcoholic Beverage Control shall prohibit the offering or sale of that beverage brand within the state.

(B) The department shall enter into a contract with the Department of Alcoholic Beverage Control, pursuant to Section 14536.5, concerning the implementation of this paragraph, which shall include a provision reimbursing the Department of Alcoholic Beverage Control for its costs incurred in implementing this

paragraph.

(3) (A) Notwithstanding paragraph (1), a beverage manufacturer may, upon the approval of the department, elect to make a single annual payment of processing fees, if the beverage manufacturer's projected processing fees for a calendar year total less than one thousand dollars ($1,000).

(B) An annual processing fee payment made pursuant to this paragraph is due and payable on or before February 1 for every beverage container sold or transferred by the beverage manufacturer to a distributor or dealer in the previous calendar year.

(C) A beverage manufacturer shall notify the department of its intent to make an annual processing fee payment pursuant to this paragraph on or before January 31 of the calendar year preceding the year in which the payment will be due.

(4) The department shall pay the processing fees collected on redeemed containers to processors, in the same manner as it pays refund values pursuant to Sections 14573 and 14573.5. The department shall pay the processing fees collected on unredeemed containers into the fund. The department shall not use processing fees collected on unredeemed beverage containers to pay all or a portion of the processing costs determined pursuant to subdivision (a). The processor shall pay the recycling center that portion of the processing fee representing the actual cost and financial return incurred by the recycling center, as specified in subdivision (a).

(h) When assessing processing fees pursuant to subdivision (c), the department shall assess the processing fee on each container sold, by the type of material of the container, assuming that every container sold will be redeemed for recycling, whether or not the container is actually recycled. When calculating and assessing processing fees, the department also shall not assume that redemption bonuses will be kept by recycling centers or locations.

(i) The container manufacturer, or a designated agent, shall pay to, or credit, the account of the beverage manufacturer in an amount equal to the processing fee.

(j) This section shall become operative January 1, 1996.

CHAPTER 1261

An act to amend Sections 86, 1292, and 1292.2 of, and to add and repeal Title 11.6 (commencing with Section 1775) to Part 3 of, the Code of Civil Procedure, to amend Sections 703.5 and 1152.5 of the Evidence Code, and to amend, repeal, and add Section 68616 of the Government Code, relating to alternative dispute resolution.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 86 of the Code of Civil Procedure is amended to read:

86. (a) Each municipal and justice court has original jurisdiction of civil cases and proceedings as follows:

(1) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to twenty-five thousand dollars ($25,000) or less, except cases which involve the legality of any tax, impost, assessment, toll, or municipal fine, except the courts have jurisdiction in actions to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) In actions for dissolution of partnership where the total assets of the partnership do not exceed twenty-five thousand dollars ($25,000); in actions of interpleader where the amount of money or the value of the property involved does not exceed twenty-five thousand dollars ($25,000).

(3) In actions to cancel or rescind a contract when the relief is sought in connection with an action to recover money not exceeding twenty-five thousand dollars ($25,000) or property of a value not exceeding twenty-five thousand dollars ($25,000), paid or delivered under, or in consideration of, the contract; in actions to revise a contract where the relief is sought in an action upon the contract if the court otherwise has jurisdiction of the action.

(4) In all proceedings in forcible entry or forcible or unlawful detainer where the whole amount of damages claimed is twenty-five thousand dollars ($25,000) or less.

(5) In all actions to enforce and foreclose liens on personal property where the amount of the liens is twenty-five thousand dollars ($25,000) or less.

(6) In all actions to enforce and foreclose liens of mechanics, materialmen, artisans, laborers, and of all other persons to whom liens are given under the provisions of Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3 of the Civil Code, or to enforce and foreclose an assessment lien on a common interest development as defined in Section 1351 of the Civil Code, where the amount of the liens is twenty-five thousand dollars ($25,000) or less. However, where an action to enforce the lien is pending in a municipal or justice court, and affects property which is also affected by a similar action pending in a superior court, or where the total amount of the liens sought to be foreclosed against the same property by action or actions in a municipal or justice court aggregates an amount in excess of twenty-five thousand dollars ($25,000), the municipal or justice court in which any such action, or actions, is, or are, pending, upon motion of any interested party, shall order the

action or actions pending therein transferred to the proper superior court. Upon the making of the order, the same proceedings shall be taken as are provided by Section 399 with respect to the change of place of trial.

(7) In actions for declaratory relief when brought by way of cross-complaint as to a right of indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding otherwise within the jurisdiction of the municipal or justice court.

(8) To issue temporary restraining orders and preliminary injunctions, to take accounts, and to appoint receivers where necessary to preserve the property or rights of any party to an action of which the court has jurisdiction; to appoint a receiver and to make any order or perform any act, pursuant to Title 9 (commencing with Section 680.010) of Part 2 (enforcement of judgments); to determine title to personal property seized in an action pending in such court.

(9) In all actions under Article 3 (commencing with Section 708.210) of Chapter 6 of Division 2 of Title 9 of Part 2 for the recovery of an interest in personal property or to enforce the liability of the debtor of a judgment debtor where the interest claimed adversely is of a value not exceeding twenty-five thousand dollars ($25,000) or the debt denied does not exceed twenty-five thousand dollars ($25,000).

(10) In all arbitration-related petitions filed pursuant to Article 2 (commencing with Section 1292) of Chapter 5 of Title 9 of Part 3, except for uninsured motorist arbitration proceedings in accordance with Section 11580.2 of the Insurance Code, if (A) the petition is filed before the arbitration award becomes final and the matter to be resolved by arbitration is within the jurisdiction of the municipal or justice court under paragraphs (1) to (9), inclusive, or (B) the petition if filed after the arbitration award becomes final and the amount of the award and all other rulings, pronouncements, and decisions made in the award are within the jurisdiction of the municipal or justice court under paragraphs (1) to (9), inclusive.

(b) Each municipal and justice court has jurisdiction of cases in equity as follows:

(1) In all cases to try title to personal property when the amount involved is not more than twenty-five thousand dollars ($25,000).

(2) In all cases when equity is pleaded as a defensive matter in any case otherwise properly pending in a municipal or justice court.

(3) To vacate a judgment or order of such municipal or justice court obtained through extrinsic fraud, mistake, inadvertence, or excusable neglect.

(c) In any action that is otherwise within its jurisdiction, the court may impose liability whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

(d) Changes in the jurisdictional ceilings made by amendments to this section at the 1977–78 Regular Session or the 1985–86 Regular Session of the Legislature shall not constitute a basis for the transfer

to another court of any case pending at the time such changes become operative.

SEC. 1.5. Section 86 of the Code of Civil Procedure is amended to read:

86. (a) Each municipal and justice court has original jurisdiction of civil cases and proceedings as follows:

(1) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to twenty-five thousand dollars ($25,000) or less, except cases which involve the legality of any tax, impost, assessment, toll, or municipal fine, except the courts have jurisdiction in actions to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) In actions for dissolution of partnership where the total assets of the partnership do not exceed twenty-five thousand dollars ($25,000); in actions of interpleader where the amount of money or the value of the property involved does not exceed twenty-five thousand dollars ($25,000).

(3) In actions to cancel or rescind a contract when the relief is sought in connection with an action to recover money not exceeding twenty-five thousand dollars ($25,000) or property of a value not exceeding twenty-five thousand dollars ($25,000), paid or delivered under, or in consideration of, the contract; in actions to revise a contract where the relief is sought in an action upon the contract if the court otherwise has jurisdiction of the action.

(4) In all proceedings in forcible entry or forcible or unlawful detainer where the whole amount of damages claimed is twenty-five thousand dollars ($25,000) or less.

(5) In all actions to enforce and foreclose liens on personal property where the amount of the liens is twenty-five thousand dollars ($25,000) or less.

(6) In all actions to enforce and foreclose liens of mechanics, materialmen, artisans, laborers, and of all other persons to whom liens are given under the provisions of Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3 of the Civil Code, or to enforce and foreclose an assessment lien on a common interest development as defined in Section 1351 of the Civil Code, where the amount of the liens is twenty-five thousand dollars ($25,000) or less. However, where an action to enforce the lien is pending in a municipal or justice court, and affects property which is also affected by a similar action pending in a superior court, or where the total amount of the liens sought to be foreclosed against the same property by action or actions in a municipal or justice court aggregates an amount in excess of twenty-five thousand dollars ($25,000), the municipal or justice court in which any such action, or actions, is, or are, pending, upon motion of any interested party, shall order the action or actions pending therein transferred to the proper superior court. Upon the making of the order, the same proceedings shall be taken as are provided by Section 399 with respect to the change of

place of trial.

(7) In actions for declaratory relief when brought pursuant to either of the following:

(A) By way of cross-complaint as to a right of indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding otherwise within the jurisdiction of the municipal or justice court.

(B) To conduct a trial after a nonbinding fee arbitration between an attorney and client, pursuant to Article 13 (commencing with Section 6200) of Chapter 4 of Division 3 of the Business and Professions Code, where the amount in controversy is twenty-five thousand dollars ($25,000) or less.

(8) To issue temporary restraining orders and preliminary injunctions, to take accounts, and to appoint receivers where necessary to preserve the property or rights of any party to an action of which the court has jurisdiction; to appoint a receiver and to make any order or perform any act, pursuant to Title 9 (commencing with Section 680.010) of Part 2 (enforcement of judgments); to determine title to personal property seized in an action pending in such court.

(9) In all actions under Article 3 (commencing with Section 708.210) of Chapter 6 of Division 2 of Title 9 of Part 2 for the recovery of an interest in personal property or to enforce the liability of the debtor of a judgment debtor where the interest claimed adversely is of a value not exceeding twenty-five thousand dollars ($25,000) or the debt denied does not exceed twenty-five thousand dollars ($25,000).

(10) In all arbitration-related petitions filed pursuant to either of the following:

(A) Pursuant to Article 2 (commencing with Section 1292) of Chapter 5 of Title 9 of Part 3, except for uninsured motorist arbitration proceedings in accordance with Section 11580.2 of the Insurance Code, (i) the petition is filed before the arbitration award becomes final and the matter to be resolved by arbitration is within the jurisdiction of the municipal or justice court under paragraphs (1) to (9), inclusive, or (ii) the petition if filed after the arbitration award becomes final and the amount of the award and all other rulings, pronouncements, and decisions made in the award are within the jurisdiction of the municipal or justice court under paragraphs (1) to (9), inclusive.

(B) To confirm, correct, or vacate a fee arbitration award between an attorney and client that is binding or has become binding, pursuant to Article 13 (commencing with Section 6200) of Chapter 4 of Division 3 of the Business and Professions Code, where the arbitration award is twenty-five thousand dollars ($25,000) or less.

(b) Each municipal and justice court has jurisdiction of cases in equity as follows:

(1) In all cases to try title to personal property when the amount involved is not more than twenty-five thousand dollars ($25,000).

(2) In all cases when equity is pleaded as a defensive matter in any case otherwise properly pending in a municipal or justice court.

(3) To vacate a judgment or order of such municipal or justice court obtained through extrinsic fraud, mistake, inadvertence, or excusable neglect.

(c) In any action that is otherwise within its jurisdiction, the court may impose liability whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

(d) Changes in the jurisdictional ceilings made by amendments to this section at the 1977–78 Regular Session or the 1985–86 Regular Session of the Legislature shall not constitute a basis for the transfer to another court of any case pending at the time such changes become operative.

SEC. 2. Section 1292 of the Code of Civil Procedure is amended to read:

1292. Except as otherwise provided in this article, any petition made prior to the commencement of arbitration shall be filed in a court having jurisdiction in:

(a) The county where the agreement is to be performed or was made.

(b) If the agreement does not specify a county where the agreement is to be performed and the agreement was not made in any county in this state, the county where any party to the court proceeding resides or has a place of business.

(c) In any case not covered by subdivision (a) or (b) of this section, in any county in this state.

SEC. 3. Section 1292.2 of the Code of Civil Procedure is amended to read:

1292.2. Except as otherwise provided in this article, any petition made after the commencement or completion of arbitration shall be filed in a court having jurisdiction in the county where the arbitration is being or has been held, or, if not held exclusively in any one county of this state, or if held outside of this state, then the petition shall be filed as provided in Section 1292.

SEC. 4. Title 11.6 (commencing with Section 1775) is added to Part 3 of the Code of Civil Procedure, to read:

TITLE 11.6. CIVIL ACTION MEDIATION

1775. The Legislature finds and declares that:

(a) The peaceful resolution of disputes in a fair, timely, appropriate, and cost-effective manner is an essential function of the judicial branch of state government under Article VI of the California Constitution.

(b) In the case of many disputes, litigation culminating in a trial is costly, time consuming, and stressful for the parties involved. Many disputes can be resolved in a fair and equitable manner through less formal processes.

(c) Alternative processes for reducing the cost, time, and stress of

dispute resolution, such as mediation, have been effectively used in California and elsewhere. In appropriate cases mediation provides parties with a simplified and economical procedure for obtaining prompt and equitable resolution of their disputes and a greater opportunity to participate directly in resolving these disputes. Mediation may also assist to reduce the backlog of cases burdening the judicial system. It is in the public interest for mediation to be encouraged and used where appropriate by the courts.

(d) Mediation and similar alternative processes can have the greatest benefit for the parties in a civil action when used early, before substantial discovery and other litigation costs have been incurred. Where appropriate, participants in disputes should be encouraged to utilize mediation and other alternatives to trial for resolving their differences in the early stages of a civil action.

(e) As a pilot project in Los Angeles County and in other counties which elect to apply this title, courts should be able to refer cases to appropriate dispute resolution processes such as judicial arbitration and mediation as an alternative to trial, consistent with the parties' right to obtain a trial if a dispute is not resolved through an alternative process.

(f) The purpose of this title is to encourage the use of court-annexed alternative dispute resolution methods in general, and mediation in particular. It is estimated that the average cost to the court for processing a civil case of the kind described in Section 1775.3 through judgment is three thousand nine hundred forty-three dollars ($3,943) for each judge day, and that a substantial portion of this cost can be saved if these cases are resolved before trial.

The Judicial Council, through the Administrative Office of the Courts, shall conduct a survey to determine the number of cases resolved by alternative dispute resolution authorized by this title, and shall estimate the resulting savings realized by the courts and the parties. The results of the survey shall be included in the report submitted pursuant to Section 1775.14. The programs authorized by this title shall be deemed successful if they result in estimated savings of at least two hundred fifty thousand dollars ($250,000) to the courts and corresponding savings to the parties.

1775.1. (a) As used in this title:

(1) "Court" means a superior court, municipal court, or justice court.

(2) "Mediation" means a process in which a neutral person or persons facilitate communication between the disputants to assist them in reaching a mutually acceptable agreement.

(b) Unless otherwise specified in this title or ordered by the court, any act to be performed by a party may also be performed by his or her counsel of record.

1775.2. (a) This title shall apply to the courts of the County of Los Angeles.

(b) A court of any county, at the option of the presiding judge, may elect whether or not to apply this title to eligible actions filed

in that court, and this title shall not apply in any court which has not so elected. An election under this subdivision may be revoked by the court at any time.

(c) Courts are authorized to apply this title to all civil actions pending or commenced on or after January 1, 1994.

1775.3. (a) In the courts of the County of Los Angeles and in other courts that elect to apply this title, all at-issue civil actions in which arbitration is otherwise required pursuant to Section 1141.11, whether or not the action includes a prayer for equitable relief, may be submitted to mediation by the presiding judge or the judge designated under this title as an alternative to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3.

(b) Any civil action otherwise within the scope of this title in which a party to the action is a public agency or public entity may be submitted to mediation pursuant to subdivision (a).

1775.4. An action that has been ordered into arbitration pursuant to Section 1141.11 or 1141.12 may not be ordered into mediation under this title, and an action that has been ordered into mediation pursuant to Section 1775.3 may not be ordered into arbitration pursuant to Section 1141.11.

1775.5. The court shall not order a case into mediation where the amount in controversy exceeds fifty thousand dollars ($50,000). The determination of the amount in controversy shall be made in the same manner as provided in Section 1141.16 and, in making this determination, the court shall not consider the merits of questions of liability, defenses, or comparative negligence.

1775.6. In actions submitted to mediation pursuant to Section 1775.3, a mediator shall be selected for the action within 30 days of its submission to mediation. The method of selection and qualification of the mediator shall be as the parties determine. If the parties are unable to agree on a mediator within 15 days of the date of submission of the action to mediation, the court may select a mediator pursuant to standards adopted by the Judicial Council.

1775.7. (a) Submission of an action to mediation pursuant to this title shall not suspend the running of the time periods specified in Chapter 1.5 (commencing with Section 583.110) of Title 8 of Part 2, except as provided in this section.

(b) If an action is or remains submitted to mediation pursuant to this title more than four years and six months after the plaintiff has filed the action, then the time beginning on the date four years and six months after the plaintiff has filed the action and ending on the date on which a statement of nonagreement is filed pursuant to Section 1775.9 shall not be included in computing the five-year period specified in Section 583.310.

1775.8. (a) The compensation of court-appointed mediators shall be the same as the compensation of arbitrators pursuant to Section 1141.18, except that no compensation shall be paid prior to the filing of a statement of nonagreement by the mediator pursuant to Section

1775.9 or prior to settlement of the action by the parties.

(b) All administrative costs of mediation, including compensation of mediators, shall be paid in the same manner as for arbitration pursuant to Section 1141.28. Funds allocated for the payment of arbitrators under the judicial arbitration program shall be equally available for the payment of mediators under this title.

1775.9. (a) In the event that the parties to mediation are unable to reach a mutually acceptable agreement and any party to the mediation wishes to terminate the mediation, then the mediator shall file a statement of nonagreement. This statement shall be in a form to be developed by the Judicial Council.

(b) Upon the filing of a statement of nonagreement, the matter shall be calendared for trial, by court or jury, both as to law and fact, insofar as possible, so that the trial shall be given the same place on the active list as it had prior to mediation, or shall receive civil priority on the next setting calendar.

1775.10. All statements made by the parties during the mediation shall be subject to Sections 1152 and 1152.5 of the Evidence Code.

1775.11. Any party who participates in mediation pursuant to Section 1775.3 shall retain the right to obtain discovery to the extent available under the Civil Discovery Act of 1986, Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4.

1775.12. Any reference to the mediation or the statement of nonagreement filed pursuant to Section 1775.9 during any subsequent trial shall constitute an irregularity in the proceedings of the trial for the purposes of Section 657.

1775.13. It is the intent of the Legislature that nothing in this title be construed to preempt other current or future alternative dispute resolution programs operating in the trial courts.

1775.14. On or before January 1, 1998, the Judicial Council shall submit a report to the Legislature concerning court alternative dispute resolution programs. This report shall include, but not be limited to, a review of programs operated in Los Angeles County and other courts that have elected to apply this title, and shall examine, among other things, the effect of this title on the judicial arbitration programs of courts that have participated in that program.

(b) The Judicial Council shall, by rule, require that each court applying this title file with the Judicial Council such data as will enable the Judicial Council to submit the report required by subdivision (a).

1775.15. Notwithstanding any other provision of law except the provisions of this title, the Judicial Council shall provide by rule for all of the following:

(a) The procedures to be followed in submitting actions to mediation under this act.

(b) Coordination of the procedures and processes under this act with those under the trial Court Delay Reduction Act, Article 5 (commencing with Section 68600) of Chapter 2 of Title 8 of the Government Code.

(c) Exceptions for cause from provisions of this title. In providing for exceptions, the Judicial Council shall take into consideration whether the civil action might not be amenable to mediation.

1775.16. This title shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1999, deletes or extends that date.

SEC. 5. Section 703.5 of the Evidence Code is amended to read:

703.5. No person presiding at any judicial or quasi-judicial proceeding, and no arbitrator or mediator, shall be competent to testify, in any subsequent civil proceeding, as to any statement, conduct, decision, or ruling, occurring at or in conjunction with the prior proceeding, except as to a statement or conduct that could (a) give rise to civil or criminal contempt, (b) constitute a crime, (c) be the subject of investigation by the State Bar or Commission on Judicial Performance, or (d) give rise to disqualification proceedings under paragraph (1) or (6) of subdivision (a) of Section 170.1 of the Code of Civil Procedure. However, this section does not apply to a mediator with regard to any mediation under Chapter 11 (commencing with Section 3155) of Part 2 of Division 8 of the Family Code.

SEC. 6. Section 1152.5 of the Evidence Code, as amended by Section 73 of Chapter 163 of the Statutes of 1992, is further amended to read:

1152.5. (a) When persons agree to conduct and participate in a mediation for the purpose of compromising, settling, or resolving a dispute in whole or in part:

(1) Except as otherwise provided in this section, evidence of anything said or of any admission made in the course of the mediation is not admissible in evidence or subject to discovery, and disclosure of this evidence shall not be compelled, in any civil action or proceeding in which, pursuant to law, testimony can be compelled to be given.

(2) Except as otherwise provided in this section, unless the document otherwise provides, no document prepared for the purpose of, or in the course of, or pursuant to, the mediation, or copy thereof, is admissible in evidence or subject to discovery, and disclosure of such a document shall not be compelled, in any civil action or proceeding in which, pursuant to law, testimony can be compelled to be given.

(3) When persons agree to conduct or participate in mediation for the sole purpose of compromising, settling, or resolving a dispute, in whole or in part, all communications, negotiations, or settlement discussions by and between participants or mediators in the mediation shall remain confidential.

(4) All or part of a communication or document which may be otherwise privileged or confidential may be disclosed if all parties who conduct or otherwise participate in a mediation so consent.

(5) A written settlement agreement, or part thereof, is admissible to show fraud, duress, or illegality if relevant to an issue in dispute.

(6) Evidence otherwise admissible or subject to discovery outside of mediation shall not be or become inadmissible or protected from disclosure solely by reason of its introduction or use in a mediation.

(b) This section does not apply where the admissibility of the evidence is governed by Section 1818 or 3156 of the Family Code.

(c) Nothing in this section makes admissible evidence that is inadmissible under Section 1152 or any other statutory provision, including, but not limited to, the sections listed in subdivision (d). Nothing in this section limits the confidentiality provided pursuant to Section 65 of the Labor Code.

(d) If the testimony of a mediator is sought to be compelled in any action or proceeding as to anything said or any admission made in the course of the mediation that is inadmissible and not subject to disclosure under this section, the court shall award reasonable attorney's fees and costs to the mediator against the person or persons seeking that testimony.

(e) Paragraph (2) of subdivision (a) does not limit the effect of an agreement not to take a default in a pending civil action.

SEC. 7. Section 68616 of the Government Code is amended to read:

68616. Delay reduction rules shall not require shorter time periods than as follows:

(a) Service of the complaint within 60 days after filing. Exceptions, for longer periods of time, may be granted as authorized by local rule.

(b) Service of responsive pleadings within 30 days after service of the complaint. The parties may stipulate to an additional 15 days. Exceptions, for longer periods of time, may be granted as authorized by local rule.

(c) Time for service of notice or other paper under Sections 1005 and 1013 of the Code of Civil Procedure and time to plead after service of summons under Section 412.20 of the Code of Civil Procedure shall not be shortened except as provided in those sections.

(d) Within 30 days of service of the responsive pleadings, the parties may, by stipulation filed with the court, agree to a single continuance not to exceed 30 days.

It is the intent of the Legislature that these stipulations not detract from the efforts of the courts to comply with standards of timely disposition. To this extent, the Judicial Council shall develop statistics that distinguish between cases involving, and not involving, these stipulations.

(e) No status conference, or similar event, other than a challenge to the jurisdiction of the court, may be required to be conducted sooner than 30 days after service of the first responsive pleadings, or no sooner than 30 days after expiration of a stipulated continuance, if any, pursuant to subdivision (d).

(f) Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall govern discovery,

except in arbitration proceedings.

(g) An order referring an action to arbitration or mediation may be made at any status conference held in accordance with subdivision (e), provided that any arbitration ordered may not commence prior to 210 days after the filing of the complaint, exclusive of the stipulated period provided in subdivision (d). Any mediation ordered pursuant to Section 1775.3 of the Code of Civil Procedure may be commenced prior to 210 days after the filing of the complaint, exclusive of the stipulated period provided in subdivision (d). No rule adopted pursuant to this article may contravene Sections 638 and 639 of the Code of Civil Procedure.

(h) Unnamed (DOE) defendants shall not be dismissed prior to the conclusion of the introduction of evidence at trial, except upon stipulation or motion of the parties.

(i) Notwithstanding Section 170.6 of the Code of Civil Procedure, in direct calendar courts, challenges pursuant to that section shall be exercised within 15 days of the party's first appearance. Master calendar courts shall be governed solely by Section 170.6 of the Code of Civil Procedure.

(j) This section applies to all cases subject to this article which are filed on or after January 1, 1991.

(k) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1999, deletes or extends that date.

SEC. 8. Section 68616 is added to the Government Code, to read:

68616. Delay reduction rules shall not require shorter time periods than as follows:

(a) Service of the complaint within 60 days after filing. Exceptions, for longer periods of time, may be granted as authorized by local rule.

(b) Service of responsive pleadings within 30 days after service of the complaint. The parties may stipulate to an additional 15 days. Exceptions, for longer periods of time, may be granted as authorized by local rule.

(c) Time for service of notice or other paper under Sections 1005 and 1013 of the Code of Civil Procedure and time to plead after service of summons under Section 412.20 of the Code of Civil Procedure shall not be shortened except as provided in those sections.

(d) Within 30 days of service of the responsive pleadings, the parties may, by stipulation filed with the court, agree to a single continuance not to exceed 30 days.

It is the intent of the Legislature that these stipulations not detract from the efforts of the courts to comply with standards of timely disposition. To this extent, the Judicial Council shall develop statistics that distinguish between cases involving, and not involving, these stipulations.

(e) No status conference, or similar event, other than a challenge to the jurisdiction of the court, may be required to be conducted

sooner than 30 days after service of the first responsive pleadings, or no sooner than 30 days after expiration of a stipulated continuance, if any, pursuant to subdivision (d).

(f) Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall govern discovery, except in arbitration proceedings.

(g) No case may be referred to arbitration prior to 210 days after the filing of the complaint, exclusive of the stipulated period provided for in subdivision (d). No rule adopted pursuant to this article may contravene Sections 638 and 639 of the Code of Civil Procedure.

(h) Unnamed (DOE) defendants shall not be dismissed prior to the conclusion of the introduction of evidence at trial, except upon stipulation or motion of the parties.

(i) Notwithstanding Section 170.6 of the Code of Civil Procedure, in direct calendar courts, challenges pursuant to that section shall be exercised within 15 days of the party's first appearance. Master calendar courts shall be governed solely by Section 170.6 of the Code of Civil Procedure.

(j) This section applies to all cases subject to this article which are filed on or after January 1, 1991.

(k) This section shall become operative on January 1, 1999.

SEC. 9. Section 1.5 of this bill incorporates amendments to Section 86 of the Code of Civil Procedure proposed by both this bill and AB 1272. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1994, (2) each bill amends Section 86 of the Code of Civil Procedure, and (3) this bill is enacted after AB 1272, in which case Section 1 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 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 1262

An act to amend Sections 6200, 6201, and 6203 of the Business and Professions Code, and to amend Sections 86, 116.220, and 1060 of the Code of Civil Procedure, relating to legal proceedings.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 6200 of the Business and Professions Code is amended to read:

6200. (a) The board of governors shall, by rule, establish, maintain, and administer a system and procedure for the arbitration of disputes concerning fees, costs, or both, charged for professional services by members of the State Bar or by members of the bar of other jurisdictions. The rules may include provision for a filing fee in such amount as the board may, from time to time, determine.

(b) This article shall not apply to any of the following:

(1) Disputes where a member of the State Bar of California is also admitted to practice in another jurisdiction or where an attorney is only admitted to practice in another jurisdiction, and he or she maintains no office in the State of California, and no material portion of the services were rendered in the State of California.

(2) Claims for affirmative relief against the attorney for damages or otherwise based upon alleged malpractice or professional misconduct, except as provided in subdivision (a) of Section 6203.

(3) Disputes where the fee or cost to be paid by the client or on his or her behalf has been determined pursuant to statute or court order.

(c) Arbitration under this article shall be voluntary for a client and shall be mandatory for an attorney if commenced by a client.

(d) The board of governors shall adopt rules to allow arbitration of attorney fee and cost disputes under this article to proceed under arbitration systems sponsored by local bar associations in this state. Rules of procedure promulgated by local bar associations are subject to review by the board to insure that they provide for a fair, impartial, and speedy hearing and award.

(e) In adopting or reviewing rules of arbitration under this section the board shall provide that the panel shall include one attorney member whose area of practice is either, at the option of the client, civil law, if the attorney's representation involved civil law, or criminal law, if the attorney's representation involved criminal law, as follows:

(1) If the panel is composed of three members the panel shall include one attorney member whose area of practice is either, at the option of the client, civil or criminal law, and shall include one lay member.

(2) If the panel is composed of one member, that member shall be an attorney whose area of practice is either, at the option of the client, civil or criminal law.

(f) In any arbitration conducted pursuant to this article by the State Bar or by a local bar association, pursuant to rules of procedure approved by the board of governors, the arbitrator or arbitrators, as well as the arbitrating association and its directors, officers, and employees, shall have the same immunity which attaches in judicial proceedings.

(g) In the conduct of arbitrations under this article the arbitrator or arbitrators may do all of the following:

(1) Take and hear evidence pertaining to the proceeding.

(2) Administer oaths and affirmations.

(3) Compel, by subpoena, the attendance of witnesses and the production of books, papers, and documents pertaining to the proceeding.

SEC. 2. Section 6201 of the Business and Professions Code is amended to read:

6201. (a) The rules adopted by the board of governors shall provide that an attorney shall forward a written notice to the client prior to or at the time of service of summons or claim in an action against the client for recovery of fees, costs, or both, covered by the provisions of this article. The written notice shall be in such form as the board of governors may prescribe, but shall include a statement of the client's right to arbitration under this article. Failure to give this notice shall be a ground for the dismissal of the action.

The rules adopted by the board of governors shall provide that the client's failure to request arbitration within 30 days after receipt of notice from the attorney shall be deemed a waiver of the client's right to arbitration under the provisions of this article.

(b) If an attorney, or the attorney's assignee, subject to the provisions of this article, commences an action in any court, and the dispute is not one to which subdivision (b) of Section 6200 applies, the client may stay the action by serving and filing a request for arbitration in accordance with the rules established by the board of governors pursuant to subdivision (a) of Section 6200. The request for arbitration shall be served and filed prior to the filing of an answer in the action; failure to so request arbitration prior to the filing of an answer shall be deemed a waiver of the client's right to arbitration under the provisions of this article if notice of the client's right to arbitration was given pursuant to subdivision (a).

(c) Upon filing and service of the request for arbitration, the action shall be stayed, without the necessity of court order, until the award of the arbitrators is issued or the arbitration is otherwise terminated, and the time of the continuance of the stay shall not be part of the time limited for the commencement of the action. The stay may be vacated in whole or in part, after a hearing duly noticed by any party or the court, if the court finds that the matter, or any part of it, is not an appropriate one for arbitration under the

provisions of this article. The action may thereafter proceed subject to the provisions of Section 6204.

(d) A client's right to request or maintain arbitration under the provisions of this article is waived by (1) the commencement of an action or the filing of any pleading by the client seeking judicial resolution of a dispute to which this article applies, or (2) seeking affirmative relief against the attorney for damages or otherwise based upon alleged malpractice or professional misconduct.

SEC. 3. Section 6203 of the Business and Professions Code is amended to read:

6203. (a) The award shall be in writing and signed by the arbitrators concurring therein. It shall include a determination of all the questions submitted to the arbitrators, the decision of which is necessary in order to determine the controversy. The award shall not include any award to either party for attorney's fees incurred, notwithstanding any contract between the parties providing for such an award or attorney's fees. However, this section shall not preclude an award of attorney's fees to either party by a court pursuant to subdivision (c) of this section or of subdivision (d) of Section 6204. The State Bar, or the local bar association delegated by the State Bar to conduct the arbitration, shall deliver to each of the parties with the award, an original declaration of service of the award.

Evidence relating to claims of malpractice and professional misconduct, shall be admissible only to the extent that those claims bear upon the fees, costs, or both, to which the attorney is entitled. The arbitrators shall not award affirmative relief, in the form of damages or offset or otherwise, for injuries underlying any such claim. Nothing in this section shall be construed to prevent the arbitrators from awarding the client a refund of unearned fees, costs, or both previously paid to the attorney.

(b) Even if the parties to the arbitration have not agreed in writing to be bound, the arbitration award shall become binding upon the passage of 30 days after mailing of notice of the award, unless a party has, within the 30 days, sought a trial after arbitration pursuant to Section 6204. If an action has previously been filed in any court, any petition to confirm, correct, or vacate the award shall be to the court in which the action is pending, and may be served by mail on any party who has appeared, as provided in Chapter 4 (commencing with Section 1003) of Title 14 of Part 2 of the Code of Civil Procedure; otherwise it shall be in the same manner as provided in Chapter 4 (commencing with Section 1285) of Title 9 of Part 3 of the Code of Civil Procedure. If no action is pending in any court, the award may be confirmed, corrected, or vacated by petition to the court having jurisdiction over the amount of the arbitration award, but otherwise in the same manner as provided in Chapter 4 (commencing with Section 1285) of Title 9 of Part 3 of the Code of Civil Procedure.

(c) A court confirming, correcting, or vacating an award under this section may award to the prevailing party reasonable fees and

costs including, if applicable, fees or costs on appeal, incurred in obtaining confirmation, correction, or vacation of the award. The party obtaining judgment confirming, correcting, or vacating the award shall be the prevailing party except that, without regard to consideration of who the prevailing party may be, if a party did not appear at the arbitration hearing in the manner provided by the rules adopted by the board of governors, that party shall not be entitled to attorney's fees or costs upon confirmation, correction, or vacation of the award.

(d) (1) In any matter in which (A) the award of the arbitrators includes a refund of fees or costs, or both, to the client; (B) the award is binding or has become binding by operation of law or has become a judgment either after confirmation under subdivision (c) or after a trial after arbitration under Section 6204; and (C) the attorney has not complied with that award, the State Bar shall enforce the award by placing the attorney on involuntary inactive status until the award has been paid.

(2) The State Bar shall provide for an administrative procedure to determine whether an award should be enforced pursuant to this subdivision. An award shall be so enforced if either of the following applies:

(A) The State Bar shows that the attorney has failed to comply with a binding fee arbitration award rendered pursuant to this article.

(B) The attorney has not proposed a payment plan acceptable to the client or the State Bar.

However, the award shall not be so enforced if the attorney has demonstrated that he or she (i) is not personally responsible for making or ensuring payment of the award, or (ii) is unable to pay the award.

(3) An attorney who has failed to comply with a binding award shall pay administrative penalties or reasonable costs, or both, as directed by the State Bar. Penalties imposed shall not exceed 20 percent of the amount awarded to the client or one thousand dollars ($1,000), whichever is greater. Any penalties or costs, or both, that are not paid shall be added to the membership fee of the attorney for the next calendar year.

(4) The board shall terminate the inactive enrollment upon proof that the attorney has complied with the award and upon payment of any costs or penalties, or both, assessed as a result of the attorney's failure to comply.

(5) A request for enforcement under this subdivision shall be made within four years from the date the arbitration award was mailed. However, in no event shall a request be made prior to 100 days from the date of the service of a signed copy of the award. In cases where the award is appealed, a request shall not be made prior to 100 days from the date the award has become final as set forth in this section.

SEC. 4. Section 86 of the Code of Civil Procedure is amended to

read:

86. (a) Each municipal and justice court has original jurisdiction of civil cases and proceedings as follows:

(1) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to twenty-five thousand dollars ($25,000) or less, except cases which involve the legality of any tax, impost, assessment, toll, or municipal fine, except the courts have jurisdiction in actions to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) In actions for dissolution of partnership where the total assets of the partnership do not exceed twenty-five thousand dollars ($25,000); in actions of interpleader where the amount of money or the value of the property involved does not exceed twenty-five thousand dollars ($25,000).

(3) In actions to cancel or rescind a contract when the relief is sought in connection with an action to recover money not exceeding twenty-five thousand dollars ($25,000) or property of a value not exceeding twenty-five thousand dollars ($25,000), paid or delivered under, or in consideration of, the contract; in actions to revise a contract where the relief is sought in an action upon the contract if the court otherwise has jurisdiction of the action.

(4) In all proceedings in forcible entry or forcible or unlawful detainer where the whole amount of damages claimed is twenty-five thousand dollars ($25,000) or less.

(5) In all actions to enforce and foreclose liens on personal property where the amount of the liens is twenty-five thousand dollars ($25,000) or less.

(6) In all actions to enforce and foreclose liens of mechanics, materialmen, artisans, laborers, and of all other persons to whom liens are given under the provisions of Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3 of the Civil Code, or to enforce and foreclose an assessment lien on a common interest development as defined in Section 1351 of the Civil Code, where the amount of the liens is twenty-five thousand dollars ($25,000) or less. However, where an action to enforce the lien is pending in a municipal or justice court, and affects property which is also affected by a similar action pending in a superior court, or where the total amount of the liens sought to be foreclosed against the same property by action or actions in a municipal or justice court aggregates an amount in excess of twenty-five thousand dollars ($25,000), the municipal or justice court in which any such action, or actions, is, or are, pending, upon motion of any interested party, shall order the action or actions pending therein transferred to the proper superior court. Upon the making of the order, the same proceedings shall be taken as are provided by Section 399 with respect to the change of place of trial.

(7) In actions for declaratory relief when brought pursuant to either of the following:

(A) By way of cross-complaint as to a right of indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding otherwise within the jurisdiction of the municipal or justice court.

(B) To conduct a trial after a nonbinding fee arbitration between an attorney and client, pursuant to Article 13 (commencing with Section 6200) of Chapter 4 of Division 3 of the Business and Professions Code, where the amount in controversy is twenty-five thousand dollars ($25,000) or less.

(8) To issue temporary restraining orders and preliminary injunctions, to take accounts, and to appoint receivers where necessary to preserve the property or rights of any party to an action of which the court has jurisdiction; to appoint a receiver and to make any order or perform any act, pursuant to Title 9 (commencing with Section 680.010) of Part 2 (enforcement of judgments); to determine title to personal property seized in an action pending in such court.

(9) In all actions under Article 3 (commencing with Section 708.210) of Chapter 6 of Division 2 of Title 9 of Part 2 for the recovery of an interest in personal property or to enforce the liability of the debtor of a judgment debtor where the interest claimed adversely is of a value not exceeding twenty-five thousand dollars ($25,000) or the debt denied does not exceed twenty-five thousand dollars ($25,000).

(10) In all arbitration-related petitions filed pursuant to either of the following:

(A) Pursuant to Article 2 (commencing with Section 1292) of Chapter 5 of Title 9 of Part 3, except for uninsured motorist arbitration proceedings in accordance with Section 11580.2 of the Insurance Code, if the petition is based upon the subject matter of a pending action properly filed in the municipal court.

(B) To confirm, correct, or vacate a fee arbitration award between an attorney and client that is binding or has become binding, pursuant to Article 13 (commencing with Section 6200) of Chapter 4 of Division 3 of the Business and Professions Code, where the arbitration award is twenty-five thousand dollars ($25,000) or less.

(b) Each municipal and justice court has jurisdiction of cases in equity as follows:

(1) In all cases to try title to personal property when the amount involved is not more than twenty-five thousand dollars ($25,000).

(2) In all cases when equity is pleaded as a defensive matter in any case otherwise properly pending in a municipal or justice court.

(3) To vacate a judgment or order of such municipal or justice court obtained through extrinsic fraud, mistake, inadvertence, or excusable neglect.

(c) In any action that is otherwise within its jurisdiction, the court may impose liability whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

(d) Changes in the jurisdictional ceilings made by amendments to

this section at the 1977–78 Regular Session or the 1985–86 Regular Session of the Legislature shall not constitute a basis for the transfer to another court of any case pending at the time such changes become operative.

SEC. 4.5. Section 86 of the Code of Civil Procedure is amended to read:

86. (a) Each municipal and justice court has original jurisdiction of civil cases and proceedings as follows:

(1) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to twenty-five thousand dollars ($25,000) or less, except cases which involve the legality of any tax, impost, assessment, toll, or municipal fine, except the courts have jurisdiction in actions to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) In actions for dissolution of partnership where the total assets of the partnership do not exceed twenty-five thousand dollars ($25,000); in actions of interpleader where the amount of money or the value of the property involved does not exceed twenty-five thousand dollars ($25,000).

(3) In actions to cancel or rescind a contract when the relief is sought in connection with an action to recover money not exceeding twenty-five thousand dollars ($25,000) or property of a value not exceeding twenty-five thousand dollars ($25,000), paid or delivered under, or in consideration of, the contract; in actions to revise a contract where the relief is sought in an action upon the contract if the court otherwise has jurisdiction of the action.

(4) In all proceedings in forcible entry or forcible or unlawful detainer where the whole amount of damages claimed is twenty-five thousand dollars ($25,000) or less.

(5) In all actions to enforce and foreclose liens on personal property where the amount of the liens is twenty-five thousand dollars ($25,000) or less.

(6) In all actions to enforce and foreclose liens of mechanics, materialmen, artisans, laborers, and of all other persons to whom liens are given under the provisions of Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3 of the Civil Code, or to enforce and foreclose an assessment lien on a common interest development as defined in Section 1351 of the Civil Code, where the amount of the liens is twenty-five thousand dollars ($25,000) or less. However, where an action to enforce the lien is pending in a municipal or justice court, and affects property which is also affected by a similar action pending in a superior court, or where the total amount of the liens sought to be foreclosed against the same property by action or actions in a municipal or justice court aggregates an amount in excess of twenty-five thousand dollars ($25,000), the municipal or justice court in which any such action, or actions, is, or are, pending, upon motion of any interested party, shall order the action or actions pending therein transferred to the proper superior

court. Upon the making of the order, the same proceedings shall be taken as are provided by Section 399 with respect to the change of place of trial.

(7) In actions for declaratory relief when brought pursuant to either of the following:

(A) By way of cross-complaint as to a right of indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding otherwise within the jurisdiction of the municipal or justice court.

(B) To conduct a trial after a nonbinding fee arbitration between an attorney and client, pursuant to Article 13 (commencing with Section 6200) of Chapter 4 of Division 3 of the Business and Professions Code, where the amount in controversy is twenty-five thousand dollars ($25,000) or less.

(8) To issue temporary restraining orders and preliminary injunctions, to take accounts, and to appoint receivers where necessary to preserve the property or rights of any party to an action of which the court has jurisdiction; to appoint a receiver and to make any order or perform any act, pursuant to Title 9 (commencing with Section 680.010) of Part 2 (enforcement of judgments); to determine title to personal property seized in an action pending in such court.

(9) In all actions under Article 3 (commencing with Section 708.210) of Chapter 6 of Division 2 of Title 9 of Part 2 for the recovery of an interest in personal property or to enforce the liability of the debtor of a judgment debtor where the interest claimed adversely is of a value not exceeding twenty-five thousand dollars ($25,000) or the debt denied does not exceed twenty-five thousand dollars ($25,000).

(10) In all arbitration-related petitions filed pursuant to either of the following:

(A) Pursuant to Article 2 (commencing with Section 1292) of Chapter 5 of Title 9 of Part 3, except for uninsured motorist arbitration proceedings in accordance with Section 11580.2 of the Insurance Code, if the petition is filed before the arbitration award becomes final and the matter to be resolved by arbitration is within the jurisdiction of the municipal or justice court under paragraphs (1) to (9), inclusive, or the petition if filed after the arbitration award becomes final and the amount of the award and all other rulings, pronouncements, and decisions made in the award are within the jurisdiction of the municipal or justice court under paragraphs (1) to (9), inclusive.

(B) To confirm, correct, or vacate a fee arbitration award between an attorney and client that is binding or has become binding, pursuant to Article 13 (commencing with Section 6200) of Chapter 4 of Division 3 of the Business and Professions Code, where the arbitration award is twenty-five thousand dollars ($25,000) or less.

(b) Each municipal and justice court has jurisdiction of cases in equity as follows:

(1) In all cases to try title to personal property when the amount involved is not more than twenty-five thousand dollars ($25,000).

(2) In all cases when equity is pleaded as a defensive matter in any case otherwise properly pending in a municipal or justice court.

(3) To vacate a judgment or order of such municipal or justice court obtained through extrinsic fraud, mistake, inadvertence, or excusable neglect.

(c) In any action that is otherwise within its jurisdiction, the court may impose liability whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

(d) Changes in the jurisdictional ceilings made by amendments to this section at the 1977–78 Regular Session or the 1985–86 Regular Session of the Legislature shall not constitute a basis for the transfer to another court of any case pending at the time such changes become operative.

SEC. 5. 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) 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).

(4) To confirm, correct, or vacate a fee arbitration award not exceeding five thousand dollars ($5,000) between an attorney and client that is binding or has become binding, or to conduct a hearing de novo between an attorney and client after nonbinding arbitration of a fee dispute involving no more than five thousand dollars ($5,000) in controversy, pursuant to Article 13 (commencing with Section 6200) of Chapter 4 of Division 3 of the Business and Professions Code.

(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. The court may issue a conditional judgment. The court 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. 6. Section 1060 of the Code of Civil Procedure is amended to read:

1060. Any person interested under a deed, will or other written instrument, or under a contract, or who desires a declaration of his rights or duties with respect to another, or in respect to, in, over or upon property, or with respect to the location of the natural channel of a watercourse, may, in cases of actual controversy relating to the legal rights and duties of the respective parties, bring an original action or cross-complaint in the superior court or in the municipal or justice court to the extent allowed pursuant to Article 1 (commencing with Section 86) of Chapter 5 of Title 1 of Part 1 for a declaration of his rights and duties in the premises, including a determination of any question of construction or validity arising under such instrument or contract. He may ask for a declaration of rights or duties, either alone or with other relief; and the court may make a binding declaration of such rights or duties, whether or not further relief is or could be claimed at the time. The declaration may be either affirmative or negative in form and effect, and such declaration shall have the force of a final judgment. Such declaration may be had before there has been any breach of the obligation in respect to which said declaration is sought.

SEC. 6.5. Section 4.5 of this bill incorporates amendments to Section 86 of the Code of Civil Procedure proposed by both this bill and SB 401. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, (2) each bill amends Section 86 of the Code of Civil Procedure, and (3) this bill is enacted after SB 401, in which case Section 4 of this bill shall not become operative.

CHAPTER 1263

An act to amend Sections 101, 128.5, 149, 7500.1, 7501, 7507.10, 7512.4, 7512.5, 7550.10, 7590.1, 7591, and 7599.54 of, and to repeal and add Chapter 8.5 (commencing with Section 6980) of Division 3 of the Business and Professions Code, relating to locksmiths, and making an appropriation therefor.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 101 of the Business and Professions Code is amended to read:

101. The department is comprised of:

(a) The Board of Dental Examiners of California.

(b) The Medical Board of California.

(c) The State Board of Optometry.
(d) The California State Board of Pharmacy.
(e) The Board of Examiners in Veterinary Medicine.
(f) The State Board of Accountancy.
(g) The California State Board of Architectural Examiners.
(h) The State Board of Barber Examiners.
(i) The State Board of Registration for Professional Engineers and Land Surveyors.
(j) The Contractors' State License Board.
(k) The State Board of Cosmetology.
(*l*) The State Board of Funeral Directors and Embalmers.
(m) The Structural Pest Control Board.
(n) The Bureau of Home Furnishings and Thermal Insulation.
(o) The Board of Registered Nursing.
(p) The Board of Behavioral Science Examiners.
(q) The State Athletic Commission.
(r) The Cemetery Board.
(s) The State Board of Guide Dogs for the Blind.
(t) The Bureau of Security and Investigative Services.
(u) The Certified Shorthand Reporters Board.
(v) The Board of Vocational Nurse and Psychiatric Technician Examiners of the State of California.
(w) The California State Board of Landscape Architects.
(x) The Bureau of Electronic and Appliance Repair.
(y) The Division of Investigation.
(z) The Bureau of Automotive Repair.
(aa) The State Board of Registration for Geologists and Geophysicists.
(ab) The State Board of Examiners of Nursing Home Administrators.
(ac) Any other boards, offices, or officers subject to its jurisdiction by law.

SEC. 2. Section 128.5 of the Business and Professions Code is amended to read:

128.5. (a) Notwithstanding any other provision of law, if at the end of any fiscal year, an agency within the Department of Consumer Affairs, except the agencies referred to in subdivision (b), has unencumbered funds in an amount which equals or is more than the agency's operating budget for the next two fiscal years, the agency shall reduce license or other fees, whether the license or other fees be fixed by statute or may be determined by the agency within limits fixed by statute, during the following fiscal year in an amount which will reduce any surplus funds of the agency to an amount less than the agency's operating budget for the next two fiscal years.

(b) Notwithstanding any other provision of law, if at the end of any fiscal year, the California State Board of Architectural Examiners, the Board of Behavioral Science Examiners, the Board of Examiners in Veterinary Medicine, the Certified Shorthand

Reporters Board, the Medical Board of California, the Board of Vocational Nurse and Psychiatric Technician Examiners of the State of California, the Bureau of Security and Investigative Services has unencumbered funds in an amount which equals or is more than the agency's operating budget for the next two fiscal years, the agency shall reduce license or other fees, whether such license or other fees be fixed by statute or may be determined by the agency within limits fixed by statute, during the following fiscal year in an amount which will reduce any surplus funds of the agency to an amount less than the agency's operating budget for the next two fiscal years.

SEC. 3. Section 149 of the Business and Professions Code is amended to read:

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

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

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

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

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

(1) The State Board of Barbering and Cosmetology.
(2) The State Board of Funeral Directors and Embalmers.
(3) The Board of Examiners in Veterinary Medicine.
(4) The Hearing Aid Dispensers Examining Committee.
(5) The State Board of Landscape Architects.
(6) The California Board of Podiatric Medicine.
(7) The Respiratory Care Examining Committee.
(8) The Bureau of Home Furnishings and Thermal Insulation.
(9) The Bureau of Security and Investigative Services.

(10) The Bureau of Electronic and Appliance Repair.
(11) The Bureau of Automotive Repair.
(12) The Tax Preparers Program.
(13) The Board of Architectural Examiners.
(14) The Speech-Language Pathology and Audiology Examining Committee.
(15) The Board of Registration for Professional Engineers and Land Surveyors.
(16) The Board of Behavioral Science Examiners.

SEC. 4. Chapter 8.5 (commencing with Section 6980) of Division 3 of the Business and Professions Code is repealed.

SEC. 5. Chapter 8.5 (commencing with Section 6980) is added to Division 3 of the Business and Professions Code, to read:

CHAPTER 8.5. LOCKSMITHS

Article 1. General Provisions

6980. The following terms as used in this chapter have the meaning expressed in this article:

(a) "Branch office" means any location, other than the principal place of business of the licensee, which is licensed as set forth in this chapter.

(b) "Bureau" means the Bureau of Security and Investigative Services.

(c) "Chief" means the Chief of the Bureau of Security and Investigative Services.

(d) "Department" means the Department of Consumer Affairs.

(e) "Director" means the Director of the Department of Consumer Affairs.

(f) "Employer" means a person who employs an individual for wages or salary, lists the individual on the employer's payroll records, and withholds all legally required deductions and contributions.

(g) "Employee" means an individual who works for an employer, is listed on the employer's payroll records, and is under the employer's direction and control. An independent contractor is not an employee pursuant to this chapter.

(h) "Employer-employee relationship" means an individual who works for another and where the individual's name appears on the payroll records of the employer.

(i) "Licensee" means a business entity, whether an individual, partnership, or corporation licensed under this chapter.

(j) "Locksmith" means any person who, for any consideration whatsoever, engages, directly or indirectly and as a primary or secondary object, in the business of installing, repairing, opening, modifying locks, or who originates keys for locks. A "locksmith" shall not mean any person whose activities are limited to making a duplicate key from an existing key.

(k) "Person" means any individual, firm, company, association,

organization, partnership, or corporation.

(*l*) "Registrant" means an employee registered pursuant to the provisions of this chapter.

Article 2. Administration

6980.1. There is in the Department of Consumer Affairs the Bureau of Security and Investigative Services. The bureau is under the supervision and control of the director. The director shall administer and enforce the provisions of this chapter.

6980.2. The Governor shall appoint a chief of the bureau at a salary to be fixed in accordance with Section 12080.3 of the Government Code. The chief shall serve under the direction and supervision of the director.

6980.3. The director, in accordance with the State Civil Service Act, and Section 159.5, may appoint and fix the compensation of such clerical, inspection, investigation, and auditing personnel, as well as an assistant chief, as may be necessary to carry out the provisions of this chapter. Except as otherwise provided in Section 159.5, all personnel shall perform their respective duties under the supervision and direction of the chief.

6980.4. The chief shall gather evidence of violations of this chapter and of any rule or regulation established under this chapter by unlicensed persons who engage in a business for which a license is required under this chapter, and shall furnish the evidence to prosecuting officers of any county, city, or city and county for the purpose of prosecuting those violations.

6980.5. It shall be the duty of the chief to initiate and conduct investigations into the business operations of any locksmith, on his or her own motion, if the locksmith is not operating in accordance with the provisions of this chapter, or there has been a written complaint to the bureau about the actions and conduct of the locksmith or his or her employees.

6980.6. (a) Every power and duty granted to, or imposed upon, the director under this chapter may be delegated to the chief, except that the director may not delegate authority to adopt, or otherwise act upon, any proposed decision of a hearing officer after a hearing under the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The chief may delegate any power or duty granted to, or imposed upon, him or her under this chapter to the deputy chief, the assistant chief, or any inspection, investigation, or auditing personnel of the bureau or the department.

6980.7. (a) The director may adopt and enforce rules and regulations as may be reasonable and necessary for issuing licenses to applicants, for the conduct of the licensees, or for the general enforcement of this chapter in the protection of the public.

(b) These rules and regulations shall be adopted in accordance with the provisions of Chapter 3.5 (commencing with Section 11340)

of Part 1 of Division 3 of Title 2 of the Government Code.

6980.8. The chief or his or her designee may inspect, examine, or investigate the relevant records, books, accounts, and files created and maintained by a locksmith. The chief shall have access to those relevant business records necessary to the examination for the purpose of performing a random audit to determine compliance with the provisions of this chapter.

Article 3. Application of Chapter

6980.10. No person shall engage within this state in the activities of a locksmith as defined in subdivision (j) of Section 6980, unless the person holds a valid locksmith license, is registered pursuant to the provisions of this chapter, or is exempt from the provisions of this chapter.

6980.12. This chapter does not apply to the following persons:

(a) Any person, or his or her agent or employee, who is the manufacturer of a product, other than locks and keys, and who installs, repairs, opens, or modifies locks or who makes keys for the locks of that product as a normal incident to its marketing.

(b) Employees who are industrial or institutional locksmiths and provided that such employees provide locksmith services only to a single employer who does not provide locksmith services for hire to the public.

(c) Tow truck operators who do not originate keys for locks and whose locksmith services are limited to motor vehicles.

(d) Any person employed exclusively and regularly by a state correctional institution.

(f) Any person registered with the bureau pursuant to Chapter 11 (commencing with Section 7500) if the duties of that person's position which constitute locksmithing are ancillary to the primary duties and functions of that person's position.

6980.13. Any person who violates any provision of this chapter, or who conspires with another person to violate any provision of this chapter, or who knowingly engages an unlicensed locksmith after being notified in writing by the bureau of the individual's unlicensed status with the bureau, is guilty of a misdemeanor.

6980.14. Any person who engages in any business regulated by this chapter, who acts as or represents himself or herself to be a licensee under this chapter, who falsely represents that he or she is employed by a licensee, or who carries a badge, identification card, or business card, or uses a letterhead or advertises that he or she is a licensee under this chapter, unless such person is licensed under this chapter, is guilty of a misdemeanor, and is punishable by a fine of one thousand dollars ($1,000), or by imprisonment in a county jail for not more than one year, or by both that fine and imprisonment.

6980.15. No person engaged in performing any service requiring a license under this chapter may bring or maintain any action in any court of this state for the collection of compensation for the

performance of any act or agreement, without alleging and proving, that the person was duly licensed at all times during the performance of the act or agreement.

Article 4. Licenses

6980.17. (a) An application for a locksmith license shall be made in writing to, and filed with, the chief in such form as may be required by the director, and shall be accompanied by the application fee prescribed by this chapter. The chief may require the submission of any other relevant information, evidence, statements, or documents.

(b) Every application for a locksmith license shall state, among other things that may be required, the name of the applicant, the name under which the applicant will do business, and the location by street, number, and city of the office of the business for which the license is sought.

(c) No license shall be issued in any fictitious name which may be confused with, or which is similar to, any federal, state, county, or municipal governmental function or agency, or to any law enforcement agency, or in any name which may tend to describe any business function or enterprise not actually engaged in by the applicant, or in any name which is the same as, or so similar to, that of any existing licensee as would tend to deceive the public, or in any name which would otherwise tend to be deceptive or misleading.

6980.18. Each individual applicant, each partner of a partnership, and designated officers of a corporation shall submit with the application one personal identification form provided by the chief upon which shall appear a photograph taken within one year immediately preceding the date of the filing of the application, together with two legible sets of fingerprints and a personal description of each person, respectively. Any photograph submitted by an applicant shall measure 1¼ by 1½ inches, with a face size no greater than 1 by 1¼ inches. The identification form shall include residence addresses and employment history for the previous five years.

6980.19. If the applicant for a license is an individual, the application shall state the full name of the individual, the full residence address of the applicant, and that the applicant is to be personally and actively in charge of the business for which the license is sought. The application shall be subscribed, verified, and signed by the applicant, under penalty of perjury.

6980.20. If the applicant for a license is a partnership, the application shall state the true names and addresses of all the general partners and the name of the partner to be actively in charge of the business for which the license is sought. The application shall be subscribed, verified, and signed under penalty of perjury by all of the general partners.

6980.21. (a) If the applicant for a license is a corporation, the

application shall state the true names and complete residence addresses of the chief executive officer, secretary, chief financial officer, and any other corporate officer who will be active in the business to be licensed. The corporation identification number issued by the Secretary of State shall be indicated on the application. The application shall also state the name and address of a designated person to be actively in charge of the business for which the license is sought. The application shall be subscribed, verified, and signed by a duly authorized officer of the applicant under penalty of perjury.

(b) Except as herein otherwise provided, no individual shall be placed in active charge of the business if the individual has ever had a license revoked for cause or has ever been disqualified from further employment in the locksmith business pursuant to this chapter.

6980.22. No new or original license shall be issued to any applicant pending final disposition of any disciplinary action previously filed against the person or applicant or partner, or officer of the applicant.

6980.23. The chief shall issue a pocket identification card to the owner, partners, and officers. The chief shall determine the form and content of the card.

6980.24. The director shall issue a license, the form and content of which shall be determined in accordance with Section 164. In addition, the director shall issue a "Certificate of Licensure" to any licensee, upon request, with the fee prescribed in this chapter. A "Certificate of Licensure" shall include an embossed seal of the State of California and the signature of the chief or his or her designated representative.

6980.25. If an applicant fails to complete his or her application within one year after it has been filed, the application shall be considered to be abandoned. An application submitted subsequent to the abandonment of a former application shall be treated as a new application.

6980.26. Each locksmith license, together with the current renewal certificate, if any, shall at all times be conspicuously displayed at the place of business for which the license is issued.

6980.27. Every locksmith license shall expire at 12 midnight of the last day of the month two years following the date of issuance unless renewed; provided however, that the bureau may establish procedures, pursuant to Sections 152.5 and 152.6, for the administration of a staggered license renewal program. To renew an unexpired license or registration, the licensee shall apply for renewal on a form prescribed by the director, pay any and all fines assessed by the chief or the director which are not pending appeal, and pay the renewal fee prescribed by this chapter. On renewal, such evidence of renewal of the license or registration as the director may prescribe shall be issued to the licensee. The bureau shall send to each licensee a notice of renewal at least 45 calendar days prior to the expiration of each unexpired license.

6980.28. A locksmith license not renewed within one year

following its expiration may not be renewed thereafter. Renewal of the license within one year, or issuance of an original license thereafter, shall be subject to payment of any and all fines assessed by the chief or the director which are not pending appeal and all other applicable fees.

6980.29. A suspended locksmith license is subject to expiration and shall be renewed as provided in this article, but renewal of the license does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other activity or conduct in violation of the order or judgment by which the license was suspended. The bureau shall not issue a license renewal certificate on a suspended license until the period of suspension has terminated.

6980.30. A locksmith whose license has been canceled pursuant to this article, may obtain a new license only upon compliance with all of the provisions of this chapter relating to the issuance of an initial license.

6980.31. No license issued pursuant to this chapter shall be transferred to another person.

6980.32. Every licensee shall notify the bureau, in writing, within 30 days, of any change of residence or business address.

6980.33. A licensee shall carry a valid pocket identification card, issued by the bureau pursuant to Section 6980.23, at all times the licensee is engaged in the work of a locksmith, as defined in this chapter, whether on or off the premises of the licensee's place of business.

Article 5. Licensed and Registered Locations

6980.34. (a) A licensee desiring to operate a locksmith business under one or more fictitious trade names shall apply and qualify for an initial license for each fictitious trade name.

(b) No licensee shall indicate, or cause to be indicated, in any printed matter, or in any directory or listing, that he or she conducts a locksmith business under any name, other than the name for which he or she is licensed.

(c) An application for a license for an additional trade name shall be in the same form, and the applicant shall meet the same requirements, as for an initial license.

6980.35. A licensee desiring to operate a locksmith business at a location other than the principal place of business as shown on the license shall apply for a branch office registration for each additional location as set forth in this chapter.

6980.36. For purposes of this article, "branch office" means any additional location, other than the licensee's principal place of business, where locksmith services are provided. A telephone answering service or a telephone call forwarding device shall not be deemed to be a branch office.

6980.37. A licensee who maintains or proposes to maintain a

branch office as defined in this article, shall apply and qualify for a branch office registration.

6980.38. An application for a branch office registration under this article shall be on a form prescribed by the director and shall be accompanied by the fee as set forth in this chapter.

6980.39. An application for a branch office registration shall include:

(a) The full name and address of, and the telephone number at, the principal licensed location, and the license number of the applicant.

(b) The address of, and the telephone number at, the branch office.

6980.40. Upon receipt of the application for a branch office registration, the chief shall issue a "Branch Office Registration." The registration shall be posted in a conspicuous place at the branch office location.

6980.41. Every branch office registration issued under this chapter shall be subject to the same renewal provisions which apply to a license as provided in this chapter.

Article 6. Registration of Employees

6980.42. (a) Within seven days after commencing employment, any employee of a locksmith who is not currently registered with the bureau and who is performing the services of a locksmith shall submit to the bureau a completed application for registration, two classifiable fingerprint cards, and the appropriate registration fee. No application is required to be submitted if the employee terminated employment within seven days. "Within seven days" means 168 hours from the time an employee provides any service for which he or she shall be compensated by a licensee.

(b) Except as provided in subdivision (c), an employee of a licensee may be assigned to work with a temporary registration card issued by the licensee until the bureau issues a registration card or denies the application for registration. A temporary registration card shall in no event be valid for more than 120 days. However, the director may extend the expiration date beyond the 120 days if there is an abnormal delay in processing applications for locksmith employees. For purposes of this section, the 120-day period shall commence on the date the applicant signs the application.

(c) An employee who has been convicted of a crime prior to applying for a position as a locksmith employee performing the services of a locksmith shall not be issued a temporary registration card and shall not be assigned to work as a locksmith until the bureau issues a permanent registration card. This subdivision shall apply only if the applicant for registration has disclosed the conviction to the bureau on his or her application form, or if the fact of the conviction has come to the attention of the bureau through official court or other governmental documents.

6980.43. The application for registration under this article shall be on a form prescribed by the director and shall be accompanied by the fee as prescribed in this chapter.

6980.44. The application shall be verified and shall include the following:

(a) The full name, residence address, telephone number, and date of birth of the employee.

(b) The name, address, telephone number, and license number of the employer, and the date the employment commenced.

(c) A statement as to whether the employee has been arrested or convicted of a misdemeanor, excluding minor traffic violations.

(d) A statement as to whether the employee has been convicted of a felony.

6980.45. The bureau, upon receipt of a criminal offense record or record of a subsequent arrest from the Department of Justice, shall make an immediate determination of fitness for registration of applicants for registration, when information contained in the records of the Department of Justice makes such a determination possible. Applications for registration of those determined to be unfit shall be immediately denied.

6980.46. (a) If the chief determines that an applicant's criminal history contains arrest information for which no disposition appears, the chief shall issue a notice to the applicant allowing the applicant 45 days to provide documentation concerning the disposition of the arrest or arrests.

(b) The notice shall be sent to the applicant and shall provide sufficient information to assist the applicant in complying with the chief's request. If the applicant fails to respond within 45 days, the applicant's employment shall be automatically suspended until the bureau obtains the necessary documentation to approve or deny the application.

6980.47. If the director determines that continued employment of an applicant or registrant, in his or her current capacity, may present an undue hazard to public safety, the licensee, upon proper notification from the director, shall suspend the applicant or registrant from employment in that capacity.

6980.48. (a) Upon determining that the applicant is qualified for registration pursuant to this chapter, the bureau shall issue a registration card to the employee.

(b) The registrant shall carry a valid registration card issued by the bureau under this section at all times the registrant is engaged in the work of a locksmith whether on or off the premises of the licensee's place of business.

6980.49. A licensee shall at all times be responsible for ascertaining that his or her employees subject to registration are currently registered or have made proper application for registration as provided in this article. The licensee shall not have in his or her employment a person performing the services of a locksmith whose registration has expired, or been revoked, denied, suspended, or

canceled.

6980.50. (a) All registrations shall be placed on a cyclical renewal and shall expire two years following the date of issuance or assigned renewal date.

(b) At least 60 days prior to the expiration of a registration, a registrant who desires to renew his or her registration shall forward to the bureau a copy of his or her current registration card, along with the renewal fee as set forth in this chapter.

(c) The licensee shall provide to any employee information regarding procedures for renewal of registration.

(d) An expired registration may still be renewed within 30 days from the date of expiration provided the registrant pays a delinquency fee provided by this chapter. A registration not renewed within 30 days following its expiration may not be renewed thereafter. The holder of an expired registration may obtain a new registration only on compliance with all the provisions of this chapter relating to the issuance of an original registration. The holder of an expired registration shall not engage in any activity requiring registration under this chapter until the bureau issues a renewal or new registration.

(e) If the renewed registration card has not been delivered to the registrant, prior to the date of expiration of the prior registration, the registrant may present evidence of renewal to substantiate continued registration, for a period not to exceed 90 days after the date of expiration.

(f) A registration shall not be renewed until any and all fines, not pending appeal, assessed by the chief or the director have been paid.

Article 7. Conduct of Business

6980.53. (a) A locksmith licensed by the bureau shall be subject to the provisions of Sections 466.6 and 466.8 of the Penal Code requiring verification of identification of clients and maintenance of work orders containing required client information. A copy of each work order completed pursuant to Sections 466.6 and 466.8 of the Penal Code shall be retained for two years, shall include the name and license number of the locksmith performing the service, and shall be open to inspection by the bureau or any peace officer during business hours or submitted to the bureau upon request.

(b) Nothing in this section shall be construed to prohibit the duplication of any key for a residence, commercial establishment, or personal property registered under the Vehicle Code from another key.

6980.55. (a) Any locksmith who knowingly and willfully opens any residence, or commercial establishment for another by any method involving an on-site inspection of a door or entrance, whether or not for compensation, shall obtain the street address of the residence or commercial establishment, and the signature of the person for whom the residence or commercial establishment was

opened on a work order form. The following information regarding the person requesting entry to the residence or commercial property shall be recorded on a work order form:

(1) Name.

(2) Address.

(3) Telephone Number.

(4) Date of Birth.

(5) Driver's license or identification number. A copy of each work order form shall be retained for two years, shall include the name and license number of the locksmith performing the service, and shall be open for inspection by any peace officer or by the bureau during business hours or submitted to the bureau upon request.

(b) Any locksmith who makes keys capable of opening a motor vehicle or personal property registered under the Vehicle Code for another by any method, whether or not for compensation, shall obtain the name, date of birth, and driver's license number or identification number of the person requesting entrance, and the registration or identification number of the vehicle or personal property registered under the Vehicle Code for which entrance is requested. This information together with the date the service was performed, and the signature of the person requesting entrance, shall be set forth on a work order. A copy of each work order form shall be retained for two years, shall include the license number of the locksmith performing the service, and shall be open for inspection by a peace officer or by the bureau during business hours or submitted to the bureau upon request.

6980.58. A licensee shall at all times be responsible for those actions of his or her employees performed in violation of this chapter, when acting within the course and scope of his or her employment.

6980.59. A licensee shall, within 30 days after such change, notify the bureau of any change of its officers required to be named pursuant to Section 6980.21. Applications, on forms prescribed by the director, shall be submitted by all new officers. The director may deny the application of a new officer if the director determines that the officer has committed any act which constitutes grounds for the denial of a license pursuant to Section 6980.71.

6980.60. No licensee shall conduct business from any location other than the location for which a license or branch office registration was issued.

6980.61. No licensee shall conduct a business as an individual, partnership, or corporation, unless the licensee holds a valid license issued to the same individual, partnership, or corporation.

6980.62. (a) Each licensee shall maintain a file or record containing the name, address, commencing date of employment, and position of each employee, and the date of termination of employment when an employee is terminated. The files and records, together with usual payroll records, shall be available for inspection by the bureau, and copies thereof and information pertaining thereto or contained therein shall be submitted to the bureau upon

written request.

(b) A licensee shall respond to the bureau's request to forward copies of the files or records and information pertaining thereto or contained therein within 30 days of the bureau's request.

6980.63. Within seven days, each licensee shall verify proof of current and valid registration issued by the bureau for each employee who is subject to registration, or shall require an employee to complete and submit an application for registration, pursuant to Section 6980.42, after employing an individual who does not possess a current and valid registration from the bureau.

6980.64. Every advertisement by a licensee soliciting or advertising business shall contain his or her name and license number as they appear in the records of the bureau.

6980.65. No licensee shall aid and abet an unlicensed locksmith in any activity for which a license is required.

6980.68. No licensee shall willfully or deliberately disregard any building or safety laws of the state or any political subdivision thereof.

6980.69. No licensee shall fail in any material respect to complete the installation, repair, opening, or modification of a lock for the price stated in the contract for services.

Article 8. Disciplinary Proceedings and Administrative Citations

6980.71. (a) The director may deny a license or registration regulated by this chapter on the grounds that the applicant has done any of the following:

(1) Knowingly made a false statement of fact required to be revealed in the application for a license.

(2) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the bureau 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, irrespective of a subsequent order under Section 1203.4 of the Penal Code.

(3) Committed any act involving dishonesty, fraud, or deceit, with the intent to substantially benefit himself, herself, or another, or to substantially injure another.

(4) Committed any act which, if done by a licensee, would be grounds for suspension or revocation of a license.

(5) Been refused a license under this chapter or had a license revoked.

(6) Been an officer, partner, or manager of any person who has been refused a license under this chapter or whose license has been suspended or revoked.

(b) The bureau may deny a license or registration pursuant to this

section only if the crime or act is substantially related to the qualifications, functions, or duties of the license or registration for which application has been made.

(c) The denial of a license or registration shall be in writing and shall describe the basis for the denial. The denial shall inform the applicant that if he or she desires a hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the review shall be requested within 30 days of the issuance of the denial.

(d) Notwithstanding any other provision of this chapter, no person shall be denied a license or registration solely on the basis that he or she has been convicted of a felony, if he or she has obtained a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, or solely on the basis that he or she has been convicted of a misdemeanor, if he or she has met all applicable requirements of the criteria of rehabilitation as provided in Section 6980.72.

6980.72. (a) When considering the denial, suspension, or revocation of a license or registration for which application has been made under this chapter, the chief, in evaluating the rehabilitation of the applicant and his or her present eligibility for a license or registration, shall consider all the following criteria:

(1) The nature and severity of the act or crime under consideration as grounds for denial.

(2) The applicant's total criminal record.

(3) Evidence of any act committed subsequent to the act or crime under consideration as grounds for denial, suspension, or revocation which also could be considered as grounds for denial under Section 6980.71.

(4) The time that has elapsed since commission of the act or crime referred to in paragraph (1) or (2).

(5) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

(6) Evidence, if any, of rehabilitation submitted by the applicant.

(b) When considering a petition for reinstatement of a license or registration, the chief shall evaluate evidence of rehabilitation, considering those criteria of rehabilitation listed in subdivision (a).

6980.73. (a) The license or registration of a locksmith shall be automatically suspended if the locksmith is convicted of any crime which is substantially related to the functions, duties, and responsibilities of a locksmith. The automatic suspension shall be effectuated by the mailing of a notice of conviction and suspension of license to be sent by the bureau to the licensee at his or her address of record.

(b) The notice shall contain a statement of preliminary determination by the director or his or her designee that the crime stated is reasonably related to the functions, duties, and responsibilities of a locksmith.

(c) In enacting this section, the Legislature finds and declares that locksmiths convicted of crimes reasonably related to the functions, duties, and responsibilities of a locksmith shall be subject to automatic suspension of their license and that summary suspension is justified by compelling state interests of public safety and security within the meaning of the California Supreme Court's decision in Eye Dog Foundation v. State Board of Guide Dogs for the Blind, 67 Cal. 2d 536.

6980.74. The bureau may suspend or revoke a license issued pursuant to this chapter for acts including, but not limited to, any of the following acts which shall also be unlawful:

(a) Misrepresentation or concealment of a material fact in a license application.

(b) Interference with authorized personnel engaged in the enforcement or administration of this chapter.

(c) Knowingly using or permitting the use of any of his or her skills, tools, or facilities for the commission of any crime.

(d) Conviction of a crime substantially related to the qualifications, functions, or duties of a locksmith.

(e) A violation of this chapter or the rules and regulations adopted under the authority of this chapter.

6980.75. A record of conviction, or a certified copy thereof, shall be conclusive evidence of conviction.

6980.76. The proceedings of the bureau to deny a license application, or to revoke or suspend a license, shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code.

Article 9. Revenue

6980.79. The fees prescribed by this chapter are those fixed in the following schedule:

(a) A locksmith license application fee of thirty dollars ($30).

(b) An original license and renewal fee for a locksmith license of forty-five dollars ($45).

(c) A branch office registration fee and branch office renewal fee of thirty-five dollars ($35).

(d) Notwithstanding Section 163.5, the reinstatement fee as required by Section 6980.28 is the amount equal to the renewal fee plus a penalty of 50 percent thereof.

(e) An initial registration fee for an employee of twenty dollars ($20).

(f) A registration renewal fee for an employee performing the services of a locksmith of twenty dollars ($20).

(g) The fingerprint processing fee is that amount charged the bureau by the Department of Justice.

(h) All applicants seeking a license pursuant to this chapter shall also remit to the bureau the fingerprint fee that is charged to the bureau by the Department of Justice.

(i) The fee for a "Certificate of Licensure" of twenty dollars ($20).

(j) A delinquency fee is the amount equal to the renewal fee plus a penalty of 50 percent thereof.

6980.80. The initial application fee is considered an earned fee at the time an application for a license is received by the bureau. No refund shall be made to the applicant in the event that the applicant is found to lack the required qualifications, or is otherwise denied a license pursuant to this chapter.

6980.81. (a) The bureau shall report each month to the Controller the amount and source of all revenue received pursuant to this chapter and shall pay the entire amount thereof into the State Treasury for credit to the Private Investigator Fund.

(b) All moneys paid into the Private Investigator Fund pursuant to subdivision (a) are hereby continuously appropriated to the bureau for the purposes of this chapter.

6980.82. The director shall furnish one copy of the licensing law and rules and regulations to any applicant or licensee without charge. The director shall charge and collect a fee equivalent to the cost of producing such laws, rules and regulations, manuals, or guides, plus sales tax for each additional copy which may be furnished on request to any applicant or licensee, and for each copy furnished on request to any other person. All moneys derived pursuant to this section, except for any sales tax collected, are hereby continuously appropriated to the bureau to cover the costs of producing copies of these laws, rules and regulations, manuals, or guides. All moneys collected for sales tax shall be remitted to the Board of Equalization.

6980.83. Application or licensee fees shall not be refunded except in accordance with Section 158.

6980.84. (a) There shall be a separate budget and expenditure statement, and a separate revenue statement, outlining all moneys derived from, and expended for, the licensing and regulation of locksmiths and registrants in accordance with the provisions of this chapter.

(b) If, at the end of any fiscal year, the moneys derived from the licensing of locksmiths and registrants is in surplus in an amount equal or greater than the moneys necessary for the regulation of locksmiths and registrants for the next two fiscal years, license or other fees shall be reduced during the following fiscal year by an amount that will reduce any surplus moneys derived from the licensing of locksmiths and registrants to an amount less than the moneys expended for the regulation of locksmiths and registrants for the next two fiscal years.

SEC. 6. Section 7500.1 of the Business and Professions Code is amended to read:

7500.1. The following terms as used in this chapter have the meaning expressed in this section.

(a) "Person" includes any individual, partnership, or corporation.

(b) "Department" means the Department of Consumer Affairs.

(c) "Director" means the Director of Consumer Affairs.

(d) "Bureau" means the Bureau of Security and Investigative Services.

(e) "Chief" means the Chief of the Bureau of Security and Investigative Services.

(f) "Licensee" means an individual, partnership, or corporation licensed under this chapter as a repossession agency.

(g) "Qualified certificate holder" or "qualified manager" is a person who possesses a valid qualification certificate in accordance with the provisions of Article 5 (commencing with Section 7504) and is in active control or management of, and who is a director of, the licensee's place of business.

(h) "Employee" means a person registered under this chapter.

(i) "Services" means any duty or labor to be rendered by one person for another.

(j) "Dangerous drugs" means any controlled substances as defined in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

(k) "Deadly weapon" means and includes any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag, metal knuckles, dirk, dagger, pistol, or revolver, or any other firearm, any knife having a blade longer than five inches, any razor with an unguarded blade, and any metal pipe or bar used or intended to be used as a club.

(*l*) "Combustibles" means any substance or article that is capable of undergoing combustion or catching fire, or that is flammable, if retained.

(m) "Health hazard" means any personal effects which if retained would produce an unsanitary or unhealthful condition.

(n) "Advertisement" means any written or printed communication, including a directory listing, except a free telephone directory listing which does not allow space for a license number.

(o) "Assignment" means an authorization by the legal owner, lienholder, lessor, or lessee to recover, or to collect money payment in lieu of recovery of, personal property, including, but not limited to, personal property registered under the Vehicle Code which has been sold under a security agreement that contains a repossession clause. "Assignment" also means an authorization by the registered owner to recover personal property registered under the Vehicle Code where an employer-employee relationship exists or existed between the registered owner and the possessor of the property and the possessor is wrongfully in possession of the property.

(p) "Security agreement" means an obligation, pledge, mortgage, chattel mortgage, lease agreement, deposit, or lien, given by a debtor as security for payment or performance of his or her debt, by furnishing the creditor with a recourse to be used in case of failure in the principal obligation.

(q) "Legal owner" means a person holding a security interest in personal property which has been sold, leased, or rented under a security agreement.

(r) "Private building" means and includes any dwelling, outbuilding, or other enclosed structure.

(s) "Secured area" means and includes any fenced and locked area.

(t) "Violent act" means any act which results in bodily harm or injury to any party involved.

(u) "Personal property" means any vehicle, boat, recreational vehicle, motor home, appliance, or other property which has been sold under a security agreement.

(v) "Personal effects" means any property contained within repossessed personal property which is not the property of the legal owner.

SEC. 7. Section 7501 of the Business and Professions Code is amended to read:

7501. There is in the Department of Consumer Affairs a Bureau of Security and Investigative Services. The bureau is under the supervision and control of the director. The director shall administer and enforce the provisions of this chapter.

SEC. 8. Section 7507.10 of the Business and Professions Code is amended to read:

7507.10. Each licensee shall serve a consumer with a notice of seizure as soon as possible after the recovery of personal property and not later than 48 hours, except that if the 48-hour period encompasses a Saturday, Sunday, or postal holiday, the notice of seizure shall be provided not later than 72 hours or, if the 48-hour period encompasses a Saturday or Sunday and a postal holiday, the notice of seizure shall be provided not later than 96 hours, after the repossession of personal property, which notice shall include all of the following:

(a) The name, address, and phone number of the representative of the legal owner to be contacted regarding the repossession.

(b) The name, address, and phone number of the representative of the repossession agency to be contacted regarding the repossession.

(c) A statement printed on the notice containing the following: "Repossessors are regulated by the Bureau of Security and Investigative Services, Department of Consumer Affairs, Sacramento, CA 95814. Repossessors are required to provide you, not later than 48 hours after the recovery of personal property, with an inventory of personal effects or personal property recovered during repossession unless the 48-hour period encompasses a Saturday, Sunday, or a postal holiday, then the inventory shall be provided no later than 96 hours after the recovery of personal property."

(d) A disclosure that "Damage to a vehicle during or subsequent to a repossession and only while the vehicle is in possession of the repossession agency and which is caused by the repossession agency is the liability of the repossession agency. A mechanical failure shall not be the responsibility of the repossession agency unless the failure is due to the negligence of the repossession agency."

The notice may be given by regular mail addressed to the last known address of the consumer or by personal service at the option of the repossession agency.

SEC. 9. Section 7512.4 of the Business and Professions Code is amended to read:

7512.4. As used in this chapter, "bureau" means the Bureau of Security and Investigative Services.

SEC. 10. Section 7512.5 of the Business and Professions Code is amended to read:

7512.5. As used in this chapter, "chief" means the Chief of the Bureau of Security and Investigative Services.

SEC. 11. Section 7550.10 of the Business and Professions Code is amended to read:

7550.10. A protection dog operator shall furnish a statement containing the following to any person who in any way obtains a protection dog from the licensee: "Protection dog operators are regulated by the Bureau of Security and Investigative Services, Department of Consumer Affairs, Sacramento, CA 95814."

SEC. 12. Section 7590.1 of the Business and Professions Code is amended to read:

7590.1. The following terms as used in this chapter have the meaning expressed in this article:

(a) "Person" means any individual, firm, company, association, organization, partnership, or corporation.

(b) "Department" means the Department of Consumer Affairs.

(c) "Director" means the Director of Consumer Affairs.

(d) "Bureau" means the Bureau of Security and Investigative Services.

(e) "Chief" means the Chief of the Bureau of Security and Investigative Services.

(f) "Employer" means a person who employs an individual for wages or salary, lists the individual on the employer's payroll records, and withholds all legally required deductions and contributions.

(g) "Employee" means an individual who works for an employer, is listed on the employer's payroll records, and is under the employer's direction and control.

(h) "Employer-employee relationship" means an individual who works for another and where the individual's name appears on the payroll records of the employer.

(i) "Licensee" means a business entity, whether an individual, partnership, or corporation licensed under this chapter.

(j) "Qualified manager" means an individual who is in active control, management, and direction of the licensee's business, and who is in possession of a current and valid qualified manager's certificate pursuant to this chapter.

(k) "Registrant" means any person registered or who has applied for registration under this chapter.

(*l*) "Branch office" means any location, other than the principal place of business of the licensee, which is licensed as set forth in

Article 11 (commencing with Section 7599.20).

(m) "Branch office manager" means an individual designated by the qualified manager to manage the licensee's branch office and who has met the requirements as set forth in Article 11 (commencing with Section 7599.20).

(n) "Alarm system" means an assembly of equipment and devices arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond.

(o) "Alarm agent" means a person employed by an alarm company operator whose duties include selling on premises, altering, installing, maintaining, moving, repairing, replacing, servicing, responding, or monitoring an alarm system, or a person who manages or supervises a person employed by an alarm company to perform any of the duties described in this subdivision or any person in training for any of the duties described in this subdivision.

(p) "Deadly weapon" means and includes any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag, metal knuckles; any dirk, dagger, pistol, revolver, or any other firearm; any knife having a blade longer than five inches; any razor with an unguarded blade; or any metal pipe or bar used or intended to be used as a club.

(q) "Firearms permit" means a permit issued by the bureau, pursuant to Article 6 (commencing with Section 7596), to a licensee, a qualified manager, or an alarm agent, to carry an exposed firearm while on duty.

(r) (1) "Advertisement" means:

(A) Any written or printed communication for the purpose of soliciting, describing, or promoting the licensed business of the licensee, including a brochure, letter, pamphlet, newspaper, periodical, publication, or other writing.

(B) A directory listing caused or permitted by the licensee which indicates his or her licensed activity.

(C) A radio, television, or similar airwave transmission which solicits or promotes the licensed business of the licensee.

(2) "Advertisement" does not include any of the following:

(A) Any printing or writing used on buildings, vehicles, uniforms, badges, or other property where the purpose of the printing or writing is identification.

(B) Any printing or writing on communications, memoranda, or any other writings used in the ordinary course of business where the sole purpose of the writing is other than the solicitation or promotion of business.

(C) Any printing or writing on novelty objects used in the promotion of the licensee's business where the printing of the information required by this chapter would be impractical due to the available area or surface.

(s) "Residential sales agreement" means and includes an agreement between an alarm company operator and an owner or tenant for the purchase of an alarm system to be utilized in the

personal residence of the owner or tenant.

(t) "Firearm permit" means and includes "firearms permit," "firearms qualification card," "firearms qualification," and "firearms qualification permit."

SEC. 13. Section 7591 of the Business and Professions Code is amended to read:

7591. There is in the Department of Consumer Affairs a Bureau of Security and Investigative Services. The bureau is under the supervision and control of the director. The director shall administer and enforce the provisions of this chapter.

SEC. 14. Section 7599.54 of the Business and Professions Code is amended to read:

7599.54. Every agreement, including, but not limited to, lease agreements, monitoring agreements, and service agreements, including all labor, services, and materials to be provided for the installation of an alarm system, shall be in writing. All amendments subject to the provisions of this section to an initial agreement shall be in writing. Each initial agreement shall contain, but not be limited to, the following:

(a) The name, business address, business telephone number, and license number of the licensed alarm company operator and the registration number of any alarm agent who solicited or negotiated the agreement.

(b) The approximate dates when the work will begin and be substantially completed.

(c) A description of the work to be done, a description of the materials to be used, and the agreed consideration for the work.

(d) A disclosure that alarm company operators are licensed and regulated by the Bureau of Security and Investigative Services, Department of Consumer Affairs, Sacramento, CA, 95814.

(e) A description of the alarm system including the major components thereof and services to be provided to the purchaser once the alarm is installed, including response or monitoring services, if any.

(f) Other matters agreed to by the parties of the contract. The agreement shall be legible and shall be in such form as to clearly describe any other document which is to be incorporated into the contract, and, before any work is done, the client shall be furnished with a copy of the written agreement signed by the licensee.

(g) A statement setting forth that upon completion of the installation of the alarm system, the alarm company shall thoroughly instruct the purchaser in the proper use of the alarm system.

(h) In the event a mechanic's lien is to be utilized, a notice-to-owner statement 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 the office of a contractor's payment bond for private work.

(i) In addition to the above, every initial residential sales and lease agreement, the total cost which over the time period fixed by the agreement exceeds two hundred fifty dollars ($250), including the cost of all labor, service, or material to be provided by the licensee for the installation, shall include, but not be limited to, the following:

(1) A schedule of payments showing the amount of each payment as a sum in dollars and cents. This schedule of payments shall be referenced to the amount of work for services to be performed or to any materials or equipment to be supplied.

(2) If the payment schedule contained in the agreement provides for a down payment to be paid to the licensee by the owner or the tenant before commencement of the work, that down payment shall not exceed one thousand dollars ($1,000) or 10 percent of the contract price, excluding finance charges, whichever is the lesser.

(3) In no event shall the payment schedule provide that the licensee receive, nor shall the licensee actually receive, payment in excess of 100 percent of the value of the work performed on the project at any time, excluding finance charges, except that the licensee may receive an initial down payment authorized by paragraph (2). A failure by the licensee, without legal excuse, to substantially commence work within 20 days of the approximate date specified in the contract when work is to commence, shall postpone the next succeeding payment to the licensee for that period of time equivalent to the time between when substantial commencement was to have occurred and when it did occur.

(4) A notice-to-owner statement 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 the office of a contractor's payment bond for private work.

(5) A description of what constitutes substantial commencement of work pursuant to the contract.

(6) A disclosure that failure by the licensee, without legal excuse, to substantially commence work within 20 days from the approximate date specified in the agreement when the work will begin is a violation of the Alarm Company Act.

(7) This section shall not be construed to prohibit the parties to a residential alarm system sale 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.

A violation of this section or failure to commence work pursuant to paragraph (6) of subdivision (h) may result in a fine of one hundred dollars ($100) for the first violation and a five hundred

dollar ($500) fine for each subsequent violation.

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 1264

An act to amend Sections 103, 146, 4546, 4548, 7071.6, 7071.9, 7071.11, 7504, 7506.10, 7507.2, 7512.6, 7515, 7521, 7523, 7524, 7529, 7541.1, 7546.12, 7558, 7564, 7570, 7594.5, 7598.17, 7599.36, 7599.54, 9801, 9805, 9806, 9811, 9814, 9830, 9832, 9833, 9841, 9842, 9845, 9847, 9850, 9880.1, 9891.1, 9891.12, 9891.2, 9891.20, 9891.21, 9891.23, 9891.24, 9891.25, 9891.27, 9891.29, 9891.34, 9891.35, 9891.37, 9891.38, 9891.39, 9891.42, 19051, 19055, 19072, 19151, 19161, 19170, 19170.5, 19172, 19205, 19206, 19208, 19213, 19213.1, and 19220 of, to add Sections 7520.1, 9891.201, 9891.203, 9891.204, 19006.1, and 19072.7 to, to repeal and add Section 19072.5 of, to repeal Sections 316, 317, 318, 319, 7564.4, 7590.4, 7592.4, 7598, 9803, 9807, 9808, 9862, 9882.7, 9882.8, 9882.9, 9882.10, 9882.11, 9882.12, 9882.13, 9891.50, 19035.3, and 19175 of, and to repeal Article 3.3 (commencing with Section 7550) of Chapter 11.5 of Division 3 of, the Business and Professions Code, to amend Section 116.220 of the Code of Civil Procedure, and to repeal Chapter 1.5 (commencing with Section 1249.5) of Division 2 of the Health and Safety Code, relating to business and professions.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 103 of the Business and Professions Code is amended to read:

103. Each member of a board, commission, or committee created in the various chapters of Division 2 (commencing with Section 500) and Division 3 (commencing with Section 5000), and in Chapter 2 (commencing with Section 18600) and Chapter 3 (commencing with Section 19000) of Division 8, shall receive the moneys specified in this section when authorized by the respective provisions.

Each such member shall receive a per diem of one hundred dollars ($100) for each day actually spent in the discharge of official duties, and shall be reimbursed for traveling and other expenses necessarily

incurred in the performance of official duties.

The payments in each instance shall be made only from the fund from which the expenses of the agency are paid and shall be subject to the availability of money.

Notwithstanding any other provision of law, no public officer or employee shall receive per diem salary compensation for serving on those boards, commissions, committees, or the Consumer Advisory Council on any day when the officer or employee also received compensation for his or her regular public employment.

SEC. 2. Section 146 of the Business and Professions Code is amended to read:

146. (a) Notwithstanding any other provision of law, a violation of any code section listed in subdivision (c) is an infraction subject to the procedures described in Sections 19.6 and 19.7 of the Penal Code when:

(1) A complaint or a written notice to appear in court pursuant to Chapter 5c (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code is filed in court charging the offense as an infraction unless the defendant, at the time he or she is arraigned, after being advised of his or her rights, elects to have the case proceed as a misdemeanor, or

(2) The court, with the consent of the defendant and the prosecution, determines that the offense is an infraction in which event the case shall proceed as if the defendant has been arraigned on an infraction complaint.

(b) Subdivision (a) does not apply to a violation of the code sections listed in subdivision (c) if the defendant has had his or her license, registration, or certificate previously revoked or suspended.

(c) The following sections require registration, licensure, certification, or other authorization in order to engage in certain businesses or professions regulated by this code:

(1) Section 2630.
(2) Section 2903.
(3) Sections 3760 and 3761.
(3.5) Section 4080.
(4) Section 4825.
(4.5) Section 4935.
(5) Section 4980.
(6) Section 4996.
(7) Section 5536.
(8) Section 6704.
(9) Section 6980.10.
(10) Section 7317.
(11) Section 7520.
(12) Section 7502 or 7592.
(13) Section 7617 or 7641.
(14) Subdivision (a) of Section 7872.
(15) Section 8016.
(16) Section 8505.

(17) Section 8725.
(18) Section 9681.
(19) Section 9840.
(20) Section 9884.6.
(21) Subdivision (c) of Section 9891.24.
(22) Section 19049.

(d) Notwithstanding any other provision of law, a violation of any of the sections listed in subdivision (c), which is an infraction, is punishable by a fine of not less than two hundred fifty dollars ($250) and not more than one thousand dollars ($1,000). No portion of the minimum fine may be suspended by the court unless as a condition of that suspension the defendant is required to submit proof of a current valid license, registration, or certificate for the profession or vocation which was the basis for his or her conviction.

SEC. 3. Section 316 of the Business and Professions Code is repealed.

SEC. 4. Section 317 of the Business and Professions Code is repealed.

SEC. 5. Section 318 of the Business and Professions Code is repealed.

SEC. 6. Section 319 of the Business and Professions Code is repealed.

SEC. 6.1. Section 4546 of the Business and Professions Code is amended to read:

4546. The board shall report each month to the Controller the amount and source of all revenue received by it pursuant to this chapter and at the same time pay the entire amount thereof into the State Treasury for credit to the Vocational Nurse and Psychiatric Technician Examiners Fund. It shall not maintain a reserve balance greater than three months of the appropriated operating expense of the board in any fiscal year.

SEC. 6.2. Section 4548 of the Business and Professions Code is amended to read:

4548. The amounts of the fees payable pursuant to this chapter shall be fixed by the board according to the following schedule:

(a) The application fee shall be fifty dollars ($50).

(b) The fee for any reexamination applications shall be fifty dollars ($50).

(c) The biennial renewal fee shall be one hundred sixty dollars ($160).

(d) The delinquency fee for failure to pay the renewal fee within the prescribed time shall be no more than 50 percent of the regular renewal fee.

(e) The initial license fee shall be an amount equal to the renewal fee in effect on the date the application for the license is filed.

(f) The fee for an interim permit shall be twenty dollars ($20).

(g) The fee for a duplicate license shall be twenty dollars ($20).

(h) The fee for endorsement of a license shall be twenty dollars ($20).

SEC. 6.3. Section 7071.6 of the Business and Professions Code is amended to read:

7071.6. (a) Except as provided in Section 7071.8 and subdivision (b), the board shall require, as a condition precedent to the issuance, reinstatement, reactivation, or renewal of a license, that the applicant file or have on file a contractor's bond in the sum of seven thousand five hundred dollars ($7,500). No bond shall be required of a holder of an inactive license during the period the license is inactive.

(b) Notwithstanding subdivision (a), the board shall require, as a condition precedent to the issuance, reinstatement, reactivation, or renewal of a license for the license classification of swimming pool contractor, that the applicant file or have on file a contractor's bond in the sum of ten thousand dollars ($10,000). No bond shall be required of a holder of an inactive license during the period the license is inactive.

(c) Notwithstanding any other provision of law, the board shall require, as a condition to the continued maintenance of any active license, that the holder of a license file, or have on file, upon renewal, a contractor's bond in the sum of seven thousand five hundred dollars ($7,500); provided, that the holder of a license for the classification of swimming pool contractor file, or have on file, a contractor's bond in the sum of ten thousand dollars ($10,000).

(d) Notwithstanding any other provision of law, the board shall require, as a condition precedent to the issuance, reinstatement, or reactivation of a license, that an applicant, previously found to have failed or refused to pay a contractor, subcontractor, consumer, materials supplier, or employee based on an entered and unsatisfied final judgment from a court of law, file or have on file with the board a judgment bond or other security sufficient to guarantee payment of an amount equal to the unsatisfied final judgment or judgments. The applicant shall have 90 days from date of notification by the board to file the bond or the application shall become void and the applicant shall reapply for issuance, reinstatement, or reactivation of a license. The board may not issue, reinstate, or reactivate a license until the judgment bond is filed with the board. The judgment bond is in addition to the contractor's bond. The bond shall be on file for a minimum of one year, after that the bond may be removed by submitting proof of satisfaction of all debts. The applicant may provide the board with a notarized copy of any accord, reached with any judgment creditor holding an unsatisfied final judgment, to satisfy a debt in lieu of filing the bond. Failure to maintain the bond or failure to abide by the accord shall result in the automatic suspension, by operation of law, of any license to which this section applies. After a license is suspended for failure to maintain the bond or abide by the accord the license can only be reinstated when proof of a satisfaction of all debts is made.

Except as otherwise provided, the judgment bond shall remain in full force in the amount posted until the entire debt is satisfied. If at

the time of renewal, the licensee submits proof of partial satisfaction of the outstanding final judgment, the board may authorize the judgment bond be reduced to the amount of the unsatisfied portion of the outstanding judgment. When the licensee submits proof of satisfaction of all debts, the judgment bond requirement may be removed.

The board shall include on the license application for issuance, reinstatement, or reactivation, a statement, to be made under penalty of perjury, as to whether there are any entered and unsatisfied judgments against the applicant on behalf of contractors, subcontractors, consumers, or the applicant's employees. Notwithstanding any other provision of law, if it is found that the applicant falsified the statement then the license will be retroactively suspended to date of issuance and the license will stay suspended until the judgment bond is filed.

This subdivision applies only with respect to an unsatisfied judgment which is substantially related to the qualifications, functions, or duties of the license being applied for. This section shall not apply to an applicant for issuance, reinstatement, or reactivation where an unsatisfied judgment has been fully discharged in a completed bankruptcy proceeding.

(e) Notwithstanding any other provision of law, the licensee shall notify the registrar in writing of any entered and unsatisfied judgments within 90 days from the date of judgment.

If the licensee fails to notify the registrar in writing within 90 days, the license shall be automatically suspended and the licensee shall automatically be prohibited from serving as the responsible managing officer, responsible managing partner, or responsible managing employee for any other licensee from the date that the registrar is informed, or is made aware of the unsatisfied judgment. The suspension of the license and prohibition against serving as the responsible managing officer, responsible managing partner, or responsible managing employee for any other licensee shall not be removed until proof of satisfaction of judgment is submitted to the registrar.

If the licensee is serving as the person who is the responsible managing officer, responsible managing partner, or responsible managing employee of any other licensee at the time the suspension arises, the suspension of a license under this section shall constitute a disassociation pursuant to Section 7068.2 and the date of the suspension shall constitute the date of disassociation for the purposes of Section 7068.2. The registrar shall notify the licensee of the disassociation of the qualified person under this section. This notice shall be sent to each remaining member of the personnel of the licensee by first-class mail to the licensee's address of record. In the event that proof of full satisfaction of judgment is submitted to the registrar within the 90-day period provided in Section 7068.2, the disassociation of the responsible managing officer, responsible managing partner, or responsible managing employee shall be

terminated and the qualified person shall be permitted to serve as the responsible managing officer, responsible managing partner, or responsible managing employee for the licensee.

This section applies only with respect to an unsatisfied judgment which is substantially related to the qualifications, functions, or duties of the license being applied for. In lieu of submitting proof of satisfaction of judgment in order to remove this suspension a licensee may submit proof that the unsatisfied judgment has been fully discharged in a completed bankruptcy proceeding.

If the licensee notifies the registrar in writing within 90 days of the date of judgment of any entered and unsatisfied judgments the board shall require as a condition to the continual maintenance of the license that the licensee file or have on file with the board a judgment bond or other security sufficient to guarantee payment of an amount equal to the unsatisfied judgment or judgments. The licensee has 90 days from date of notification by the board to file the bond or at the end of the 90 days the license shall be automatically suspended. The licensee may provide the board with a notarized copy of any accord, reached with any individual holding an unsatisfied judgment, to satisfy a debt in lieu of filing the bond. Failure to maintain the bond or failure to abide by the accord shall result in the automatic suspension, by operation of law, to any license that this section applies. If a licensee does not file the bond within 90 days from the board's date of notification and the license is suspended or if the bond is not maintained and the license is suspended or if the licensee does not abide by the accord and the license is suspended, the license suspension and prohibition against serving as a responsible managing officer, responsible managing partner, or responsible managing employee for any other licensee can only be removed and the license reinstated or the licensee allowed to serve as a responsible managing officer, responsible managing partner, or responsible managing employee for any other licensee when proof of a satisfaction of all debts is made.

Except as otherwise provided, the judgment bond shall remain in full force in the amount posted until the entire debt is satisfied. If at the time of renewal, the licensee submits proof of partial satisfaction of the outstanding final judgment, the board may authorize the judgment bond be reduced to the amount of the unsatisfied portion of the outstanding judgment. When the licensee submits proof of satisfaction of all debts, the judgment bond requirement may be removed.

(f) The board shall take the actions required by this section upon notification by any party having knowledge of the outstanding judgment upon a showing of proof of the judgment.

(g) For the purposes of this section, the term "judgment" includes any final arbitration award.

(h) Notwithstanding any other provision of law, as a condition precedent to licensure, the board may require an applicant to post a contractor's bond in twice the amount required pursuant to

subdivision (a) until such time as the license is renewed, under the following conditions:

(1) The applicant has either been convicted of a violation of Section 7028 or has been cited pursuant to Section 7028.7.

(2) If the applicant has been cited pursuant to Section 7028.7, the citation has been reduced to a final order of the registrar.

(3) The violation of Section 7028, or the basis for the citation issued pursuant to Section 7028.7, constituted a substantial injury to the public.

SEC. 6.4. Section 7071.9 of the Business and Professions Code is amended to read:

7071.9. (a) If the qualifying individual, as referred to in Sections 7068 and 7068.1, is not either the proprietor, a general partner, or joint licensee, he or she shall file or have on file a qualifying individual's bond as provided in Section 7071.10 in the sum of seven thousand five hundred dollars ($7,500). This bond is in addition to, and may not be combined with, any contractor's bond required by Sections 7071.5 to 7071.8, inclusive, and is required for the issuance, reinstatement, reactivation, or continued valid use of a license.

(b) The responsible managing officer of a corporation shall not be required to file or have on file a qualifying individual's bond, if he or she owns 10 percent or more of the voting stock of the corporation and certifies to that fact on a form prescribed by the registrar.

SEC. 7. Section 7071.11 of the Business and Professions Code is amended to read:

7071.11. (a) A copy of the complaint in a civil action commenced by a person claiming against a bond required by this article shall be served by registered or certified mail upon the registrar by the clerk of the court at the time the action is commenced and the registrar shall maintain a record, available for public inspection, of all actions so commenced. The claim of any employee of the contractor for wages and fringe benefits shall be a preferred claim against the bond. The aggregate liability of a surety on a claim for wages and fringe benefits brought against any bond required by this article, other than a bond required by Section 7071.8, shall not exceed the sum of four thousand dollars ($4,000). If any bond which may be required is insufficient to pay all claims in full, the sum of the bond shall be distributed to all claimants in proportion to the amount of their respective claims with priority to claims for wages and fringe benefits. Any action, other than an action to recover fringe benefits, against a contractor's bond or a bond of a qualifying individual filed by an active licensee shall be brought within two years after the expiration of the license period during which the act or omission occurred, or within two years of the date the license of the active licensee was inactivated, canceled, or revoked by the board, whichever first occurs. Any action, other than an action to recover fringe benefits, against a disciplinary bond filed by an active licensee pursuant to Section 7071.8 shall be brought within two years after the expiration of the license period during which the act or omission

occurred, or within two years of the date the license of the active licensee was inactivated, canceled, or revoked by the board, or within two years after the last date for which a disciplinary bond filed pursuant to Section 7071.8 was required, whichever date is first. A claim to recover fringe benefits shall be brought within six months from the date that the fringe benefit delinquencies were discovered, but in no event shall a civil action thereon be brought later than two years from the date the fringe benefit contributions were due.

(b) When the surety makes payment on any claim against a bond required by this article, whether or not payment is made through a court action or otherwise, the surety shall, within 30 days of the payment, notify the registrar. The notice shall contain, on a form prescribed by the registrar, the name and license number of the contractor, the surety bond number, the amount of payment, the statutory basis upon which the claim is made, and the names of the person or persons to whom payments are made.

(c) Any judgment or admitted claim against, or good faith payment from, a bond required by this article shall constitute grounds for disciplinary action against the licensee, except in those cases of good faith payment where the licensee has, in writing, timely instructed the surety not to make payment from the bond on his or her account, upon the specific grounds that (1) the claim is opposed by the licensee, and (2) the licensee has, in writing, previously directed to the surety a specific and reasonable basis for his or her opposition to payment. The license may not be reissued or reinstated while any judgment or admitted claim in excess of the amount of the bond remains unsatisfied. Further, the license may not be reissued or reinstated while any surety remains unreimbursed for loss and expense sustained on any bond issued for the licensee or for any entity of which any officer, director, member, partner, or qualifying person was an officer, director, member, partner, or qualifying person of the licensee while the licensee was subject to disciplinary action under this section. The board shall require the licensee to file a new bond in an amount as required pursuant to Section 7071.8.

(d) Legal fees may not be charged against the bond by the board.

(e) In any case in which a claim is filed against a deposit given in lieu of a bond by any employee or by an employee organization on behalf of an employee, concerning wages or fringe benefits based upon the employee's employment, claims for the nonpayment thereof shall be filed with the Labor Commissioner. The Labor Commissioner shall, pursuant to the authority vested by Section 96.5 of the Labor Code, conduct hearings to determine whether or not the wages or fringe benefits should be paid to the complainant. Upon a finding by the commissioner that the wages or fringe benefits should be paid to the complainant, the commissioner shall notify the registrar of the findings. The registrar shall not make payment from the deposit on the basis of findings by the commissioner for a period of 10 days following determination of the findings. If, within the period, the complainant or the contractor files written notice with

the registrar and the commissioner of an intention to seek judicial review of the findings pursuant to Section 11523 of the Government Code, the registrar shall not make payment, if an action is actually filed, except as determined by the court. If, thereafter, no action is filed within 60 days following determination of findings by the commissioner, the registrar shall make payment from the deposit to the complainant.

(f) Any action, other than an action to recover fringe benefits, against a deposit given in lieu of a contractor's bond or bond of a qualifying individual filed by an active licensee shall be brought within two years after the expiration of the license period during which the act or omission occurred, or within two years after the date the license was inactivated, canceled, or revoked by the board, whichever first occurs. Any action, other than an action to recover fringe benefits, against a deposit given in lieu of a disciplinary bond filed by an active licensee pursuant to Section 7071.8 shall be brought within two years after the expiration of the license period during which the act or omission occurred, or within two years of the date the license of the active licensee was inactivated, canceled, or revoked by the board, or within two years after the last date for which a deposit given in lieu of a disciplinary bond filed pursuant to Section 7071.8 was required, whichever date is first.

SEC. 8. Section 7504 of the Business and Professions Code is amended to read:

7504. (a) Except as otherwise provided in this chapter, an applicant for a qualification certificate shall comply with all of the following:

(1) Be at least 18 years of age.

(2) Have been, for at least two years of lawful experience, during the five years preceding the date on which his or her application is filed, an employee of a licensed repossession agency within this state or the equivalent thereof if the experience was gained out of state, or have had two years of lawful experience in recovering personal property sold under a security agreement within this state. Lawful experience shall mean experience in recovering personal property sold under a security agreement as a registrant pursuant to this chapter or as a salaried employee of a financial institution or vehicle dealer.

Two years' experience shall consist of not less than 4,000 hours of actual compensated work performed by the applicant preceding the filing of an application.

An applicant shall substantiate the claimed hours of qualifying experience and the exact details as to the character and nature thereof by written certifications from the employer, subject to independent verification by the director as he or she may determine. Notwithstanding any other provision of law, only an employer or his or her designated agent may certify experience for purposes of this section. For purposes of this section, the term "employer" shall mean only those persons, corporations, partnerships, proprietorships, or

other associations which, in the employ of the designated individual, regularly and routinely withheld income taxes and other payroll deductions for direct forwarding to governmental taxing authorities.

(3) Complete and forward to the bureau a qualified certificate holder application which shall be on a form prescribed by the director. The application shall be accompanied by two recent photographs of the applicant, of a type prescribed by the director, and two classifiable sets of his or her fingerprints. The residence address, residence telephone number, and driver's license number of each qualified certificate holder or applicant for a qualification certificate, if requested, shall be confidential pursuant to the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code) and shall not be released to the public.

(4) Pass the required examination.

(5) Pay the required application and examination fees to the bureau.

The amendments made to this section during the 1990 portion of the 1989–90 Regular Session shall only apply to applications filed on or after January 1, 1992.

(b) Upon the issuance of the initial qualification certificate or renewal qualification certificate, the bureau shall issue to the certificate holder a suitable pocket identification card which includes a photograph of the certificate holder. The photograph shall be of a size prescribed by the bureau. The card shall contain the name of the licensee with whom the certificate holder is employed.

SEC. 9. Section 7506.10 of the Business and Professions Code is amended to read:

7506.10. (a) Every registration which expires on or after January 1, 1985, shall be placed on a cyclical renewal and shall expire one year following the date of issuance or assigned renewal date. In order to implement cyclical renewal, the population of registrants shall be divided into 12 equal groups, the licenses of those in each group to expire on the last day of each successive month.

Notwithstanding any other provision of law, the bureau shall have authority to extend or shorten the first term of licensure following January 1, 1985, and to prorate the required license fee in order to implement this cyclical renewal.

(b) All registrations issued on or before the effective date of this section shall expire on December 31, 1984, and every year thereafter, unless renewed as provided in this section, except for those registrations issued on or after January 1, 1984, which shall expire on December 31, 1985, and every year thereafter, unless renewed as provided in this section.

(c) At least 60 days prior to the expiration, the bureau shall mail a renewal form to the registrant at the licensee's place of business. A registrant who desires to renew his or her registration shall forward to the bureau for each registration the properly completed renewal form obtained from the bureau, with the renewal fee prescribed by

this chapter, for renewal of his or her registration.

(d) A licensee shall provide to his or her employees information regarding procedures for renewal of registration.

(e) A registration that is not renewed within 60 days after its expiration may not be renewed. If the registration is renewed within 60 days after its expiration, the registrant, as a condition precedent to renewal, shall pay the renewal fee and also pay the delinquency fee prescribed in this chapter. Registrants working with expired registrations shall pay all accrued fees and penalties prior to renewal or reregistration.

(f) The delinquency fee is 50 percent of the renewal fee in effect on the date of expiration, but not less than twenty-five dollars ($25).

(g) Upon renewal, evidence of renewal, as the director may prescribe, shall be issued to the registrant. If evidence of renewal has not been delivered to the registrant prior to the date of expiration, the registrant may present evidence of renewal to substantiate continued registration for a period not to exceed 60 days after the date of expiration.

(h) A registration shall not be renewed until any and all fines assessed pursuant to this chapter and not resolved in accordance with this chapter have been paid.

SEC. 10. Section 7507.2 of the Business and Professions Code is amended to read:

7507.2. (a) A licensee shall be responsible for those actions which are performed in violation of this chapter by his or her registrants, including his or her manager, when acting within the course and scope of his or her employment.

(b) Each licensee shall maintain a file or record of the name, address, commencing date of employment, and position of each employee, and the date of termination of employment when a registrant is terminated. The file and records, together with usual payroll records, shall be available for inspection by the bureau, and copies thereof, and information pertaining thereto or contained therein, shall be submitted to the bureau upon request.

SEC. 11. Section 7512.6 of the Business and Professions Code is amended to read:

7512.6. As used in this chapter, "licensee" means a person licensed under this chapter and includes, but is not limited to, private investigator, private patrol operator, and armored contract carrier.

SEC. 12. Section 7515 of the Business and Professions Code is amended to read:

7515. The director may adopt and enforce reasonable rules, as follows:

(a) Classifying licensees according to the type of business regulated by this chapter in which they are engaged, including, but not limited to, private investigators, persons employed by any lawful business as security guards or patrolpersons, and armored contract carriers and limiting the field and scope of the operations of a licensee to those in which he or she is classified and qualified to

engage.

(b) Fixing the qualifications of licensees and managers, in addition to those prescribed in this chapter, necessary to promote and protect the public welfare.

(c) Carrying out generally the provisions of this chapter, including regulation of the conduct of licensees.

(d) Establishing the qualifications which any person employed by a private patrol operator or any lawful business as a security guard or patrolperson, or employed by an armored contract carrier, must meet as a condition of becoming eligible to carry firearms pursuant to subdivision (d) of Section 12031 of the Penal Code.

(e) Requiring each uniformed employee of a private patrol operator and each armored vehicle guard, as defined in this chapter, and any other person employed and compensated by a private patrol operator or any lawful business as a security guard or patrolperson and who in the course of such employment carries a deadly weapon to be registered with the bureau upon application on a form prescribed by the director accompanied by the registration fee and by two classifiable sets of fingerprints of the applicant or its equivalent as determined by the director and approved by the Department of Justice; establishing the term of the registration for a period of not less than two nor more than four years; and providing for the renewal thereof upon proper application and payment of the renewal fee. The director may, after opportunity for hearing, refuse such registration to any person who lacks good moral character, and may impose such reasonable additional requirements as are necessary to meet local needs and are not inconsistent with the provisions of this chapter.

(f) Establishing procedures whereby the local authorities of any city, county, or city and county may file charges with the director alleging that any registered security guard or patrolperson, or anyone who is an applicant for registration, with the bureau fails to meet standards for registration, and providing further for the investigation of such charges.

(g) Requiring private patrol operators and any lawful business to maintain detailed records identifying all firearms in their possession or under their control, and the employees or persons authorized to carry or have access to such firearms.

SEC. 12.5. Section 7520.1 is added to the Business and Professions Code, to read:

7520.1. (a) Notwithstanding any other provision of law, any person engaging in a business as a private investigator or a private patrol operator who violates Section 7520 is guilty of an infraction subject to the procedures described in Sections 19.6 and 19.7 of the Penal Code under either of the following circumstances:

(1) A complaint or a written notice to appear in court pursuant to Chapter 5c (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code is filed in court charging the offense as an infraction unless the defendant, at the time he or she is arraigned,

after being advised of his or her rights, elects to have the case proceed as a misdemeanor.

(2) The court, with the consent of the defendant and the prosecution, determines that the offense is an infraction in which event the case shall proceed as if the defendant has been arraigned on an infraction complaint.

(b) This section does not apply to a violation of Section 7520 if the defendant has had his or her license previously revoked or suspended.

(c) Notwithstanding any other provision of law, a violation of Section 7520, which is an infraction, is punishable by a fine of one thousand dollars ($1,000). No portion of the fine may be suspended by the court unless as a condition of that suspension the defendant is required to submit proof of a current valid license for the profession of private investigator or private patrol operator which was the basis for his or her conviction.

SEC. 13. Section 7521 of the Business and Professions Code is amended to read:

7521. (a) A private investigator within the meaning of this chapter is a person, other than an insurance adjuster subject to the provisions of Chapter 1 (commencing with Section 14000) of Division 5 of the Insurance Code, who, for any consideration whatsoever engages in business or accepts employment to furnish or agrees to furnish any person to protect persons pursuant to Section 7521.5, or engages in business or accepts employment to furnish, or agrees to make, or makes, any investigation for the purpose of obtaining, information with reference to:

Crimes or wrongs done or threatened against the United States of America or any state or territory of the United States of America; the identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person; the location, disposition, or recovery of lost or stolen property; the cause or responsibility for fires, libels, losses, accidents, or damage or injury to persons or to property; or securing evidence to be used before any court, board, officer, or investigating committee. For the purposes of this subdivision, a private investigator is any person, firm, company, association, partnership or corporation acting for the purpose of investigating, obtaining, and reporting to any private employer, its agent, supervisor, or manager, information concerning such employer's employees involving questions of integrity, honesty, breach of rules or other standards of performance of job duties.

This subdivision shall not apply to a public utility regulated by the State Public Utilities Commission, or its employees.

(b) A private patrol operator, or operator of a private patrol service, within the meaning of this chapter is a person, other than an armored contract carrier, who, for any consideration whatsoever:

Agrees to furnish, or furnishes, a watchman, guard, patrolman, or

other person to protect persons or property or to prevent the theft, unlawful taking, loss, embezzlement, misappropriation, or concealment of any goods, wares, merchandise, money, bonds, stocks, notes, documents, papers, or property of any kind; or performs the service of such watchman, guard, patrolman, or other person, for any of these purposes.

(c) A person licensed as a private patrol operator only may not make any investigation or investigations except those that are incidental to the theft, loss, embezzlement, misappropriation, or concealment of any property, or any other thing enumerated in this section, which he or she has been hired or engaged to protect, guard, or watch.

(d) An armored contract carrier within the meaning of this chapter is a contract carrier operating armored vehicles pursuant to California Highway Patrol and Public Utilities Commission authority.

(e) An armored vehicle guard within the meaning of this chapter is any person employed by an armored contract carrier who in the course of such employment carries a deadly weapon.

(f) A security guard or security officer, within the meaning of this chapter, is an employee of a private patrol operator, or an employee of a lawful business or public agency who is not exempted pursuant to Section 7522, who performs the functions as described in subdivision (b) on or about the premises owned or controlled by the customer of the private patrol operator or by the guard's employer or in the company of persons being protected.

(g) A street patrolman, within the meaning of this chapter, is a security guard or security officer employed by a private patrol operator who performs the functions described in subdivision (b) by street patrol service utilizing foot patrol, motor patrol, or other means of transportation in public areas, streets or public thoroughfares in order to serve multiple customers. "Street patrolman" does not include management or supervisory employees of the private patrol operator moving from one customer location to another to inspect personnel or security guard or security officers.

SEC. 14. Section 7523 of the Business and Professions Code is amended to read:

7523. (a) Unless specifically exempted by Section 7522, no person shall engage in the business of private investigator or private patrol operator, as defined in Section 7521, unless that person has applied for and received a license to engage in that business pursuant to this chapter.

(b) Any person who violates any provision of this chapter or who conspires with another person to violate any provision of this chapter, relating to private investigator licensure, or who knowingly engages an unlicensed private investigator after being notified in writing by the bureau of the private investigator's unlicensed status with the bureau, is guilty of a misdemeanor punishable by fine not to exceed one thousand dollars ($1,000) or by imprisonment in the

county jail not to exceed one year, or by both such fine and imprisonment.

(c) Any person who violates any provision of this chapter or who conspires with another person to violate any provision of this chapter relating to private patrol operator licensure, or who knowingly engages an unlicensed private patrol operator after being notified in writing by the bureau of the patrol operator's unlicensed status with the bureau, is guilty of a misdemeanor punishable by fine not to exceed one thousand dollars ($1,000) or by imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment.

(d) Any person who violates any provision of this chapter or who conspires with another person to violate any provision of this chapter, relating to protection dog operator licensure, or who knowingly engages an unlicensed protection dog operator after being notified in writing by the bureau of the protection dog operator's unlicensed status with the bureau, is guilty of a misdemeanor punishable by fine not to exceed one thousand dollars ($1,000) or by imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment.

(e) Any person who engages in any business regulated by this chapter, who acts as or represents himself or herself to be a licensee under this chapter, who falsely represents that he or she is employed by a licensee, or who carries a badge, identification card, or business card, or uses a letterhead or advertises that he or she is a licensee under this chapter, unless such person is licensed under this chapter, is guilty of a misdemeanor and is punishable by a fine of one thousand dollars ($1,000), or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

(f) The chief shall gather evidence of violations of this chapter and of any rule or regulation established pursuant to this chapter by persons engaged in the business of private investigator or private patrol operator who fail to obtain licenses and shall gather evidence of violations and furnish that evidence to prosecuting officers of any county or city for the purpose of prosecuting all violations occurring within their jurisdiction.

(g) The prosecuting officer of any county or city shall prosecute all violations of this chapter occurring within his or her jurisdiction.

SEC. 15. Section 7524 of the Business and Professions Code is amended to read:

7524. (a) The provisions of this chapter shall not prevent the local authorities of any city, county, or city and county, by ordinance and within the exercise of the police power of such city, county, or city and county from imposing local regulations upon any street patrol service or street patrol special officers requiring registration with an agency to be designated by the city, county, or city and county, including in such registration full information as to the identification and employment and subject to the right of the city, county, or city and county to allocate certain portions of the territory

in such city, county, or city and county within which the activities of any such street patrol service or person shall be confined. Any city, county, or city and county may refuse such registration to any person of bad moral character and may impose such reasonable additional requirements as are necessary to meet local needs and are not inconsistent with the provisions of this chapter.

(b) The provisions of this chapter shall not prevent the local authorities of any city, county, or city and county, by ordinance and within the exercise of the police power of such city, county, or city and county from imposing local regulations upon any employees of a private patrol operator who are unable to furnish evidence of current registration pursuant to subdivision (f) of Section 7515.

(c) The provisions of this chapter shall not prevent the local authorities of any city, county, or city and county, by ordinance and within the exercise of the police power of such city, county, or city and county from requiring private patrol operators and their employees to register their name and a file copy of their state identification card with the city, county, or city and county. No fee may be charged and no application may be required by the city, county, or city and county for such registration.

(d) The provisions of this chapter shall not prevent the local authorities in any city, county, or city and county, by ordinance and within the exercise of the police power of the city, county, or city and county from imposing reasonable additional requirements necessary to regulate and control protection dogs according to their local needs and not inconsistent with the provisions of this chapter.

SEC. 16. Section 7529 of the Business and Professions Code is amended to read:

7529. Upon the issuance of a license, a pocket card of such size, design, and content as may be determined by the director shall be issued without charge to each licensee, if an individual, or if the licensee is a person other than an individual, to its manager and to each of its officers and partners, which card shall be evidence that the licensee is duly licensed pursuant to this chapter. The card shall contain the signature of the licensee, signature of the chief, and a photograph of the licensee, or bearer of the card, if the licensee is other than an individual, and clearly state that the person is licensed as a private investigator or private patrol operator, or is the manager or officer of the licensee. When any person to whom a card is issued terminates his or her position, office, or association with the licensee, the card shall be surrendered to the licensee and within five days thereafter shall be mailed or delivered by the licensee to the bureau for cancellation.

SEC. 17. Section 7541.1 of the Business and Professions Code is amended to read:

7541.1. (a) Notwithstanding any other provision of law, experience for purposes of taking the examination for licensure as a private investigator shall be limited to those activities actually performed in connection with investigations, as defined in

subdivision (a) of Section 7521, and only if those activities are performed by persons who are employed in the following capacities:

(1) Sworn law enforcement officers possessing powers of arrest and employed by agencies in the federal, state, or local government.

(2) Military police of the armed forces of the United States or the national guard.

(3) An insurance adjuster or their employees subject to Chapter 1 (commencing with Section 14000) of Division 5 of the Insurance Code.

(4) Persons employed by a private investigator who are duly licensed in accordance with this chapter.

(5) Persons employed by collection agencies duly licensed in accordance with Chapter 8 (commencing with Section 6850), and persons employed by repossessors duly licensed in accordance with Chapter 11 (commencing with Section 7500), only to the extent that those persons are routinely and regularly engaged in the location of debtors or the location of personal property utilizing methods commonly known as "skip tracing." For purposes of this section, only that experience acquired in that skip tracing shall be credited toward qualification to take the examination.

(6) Persons duly trained and certified as an arson investigator and employed by a public agency engaged in fire suppression.

(b) For purposes of Section 7541, persons possessing an associate of arts degree in police science, criminal law or justice from an accredited college shall be credited with 1,000 hours of experience in investigative activities.

(c) The following activities shall not be deemed to constitute acts of investigation for purposes of experience toward licensure:

(1) The serving of legal process or other documents.

(2) Activities relating to the search for heirs or similar searches which involve only a search of public records or other reference sources in the public domain.

(3) The transportation or custodial attendance of persons in the physical custody of a law enforcement agency.

(4) The provision of bailiff or other security services to a court of law.

(5) The collection or attempted collection of debts by telephone or written solicitation after the debtor has been located.

(6) The repossession or attempted repossession of personal property after that property has been located and identified.

(d) Where the activities of employment of an applicant include those which qualify as bona fide experience as stated in this section as well as those which do not qualify, the director may, by delegation to the bureau, determine and apportion that percentage of experience for which any applicant is entitled to credit.

SEC. 18. Section 7546.12 of the Business and Professions Code is amended to read:

7546.12. (a) All registrations which expire on or after January 1, 1985, shall be placed on a cyclical renewal and shall expire two years

following the date of issuance or assigned renewal date. In order to implement such cyclical renewal, the population of registrants shall be divided into 24 equal groups, the registrations of those in each group to expire on the last day of each successive month. Notwithstanding any other provision of law, the bureau shall have authority to extend or shorten the first term of licensure following January 1, 1985, and to prorate the required license fee in order to implement this cyclical renewal. A registrant seeking to renew a guard registration shall forward to the bureau no earlier than 60 days before expiration, a completed registration renewal application and the renewal fee prescribed by this chapter. The renewal application shall be on a form prescribed by the director, dated and signed by the applicant, certifying under penalty of perjury that the information in the application is true and correct.

(b) The licensee shall provide to any employee information regarding procedures for renewal or registration.

(c) In the event a registrant fails to request a renewal of his or her registration as provided in this chapter, the registration shall expire. If the registration is renewed as provided in this chapter within 60 days after its expiration, the registrant, as a condition precedent to renewal, shall pay the renewal fee and also pay the delinquency fee prescribed in this chapter.

(d) The delinquency fee is 50 percent of the renewal fee in effect on the date of expiration, but not less than twenty-five dollars ($25).

(e) If the renewed registration card has not been delivered to the registrant prior to the date of expiration of the prior registration, the registrant may present evidence of renewal to substantiate continued registration for a period not to exceed 90 days after the date of expiration.

(f) A registration shall not be renewed or reinstated until any and all fines assessed pursuant to Section 7564 and not resolved in accordance with the provisions of that section have been paid.

SEC. 19. Article 3.3 (commencing with Section 7550) of Chapter 11.5 of Division 3 of the Business and Professions Code is repealed.

SEC. 20. Section 7558 of the Business and Professions Code is amended to read:

7558. Every private patrol operator and private investigator license, branch office certificate and pocket card issued under this chapter which expires on or after January 1, 1985, shall be placed on a cyclical renewal and shall expire two years following the date of issuance or assigned renewal date. In order to implement such cyclical renewal, the population of such licensees shall be divided into 24 equal groups, the licenses of those in each group to expire on the last day of each successive month. Notwithstanding any other provision of law, the bureau shall have authority to extend or shorten the first term of licensure following January 1, 1985, and to prorate the required license fee in order to implement this cyclical renewal.

SEC. 21. Section 7564 of the Business and Professions Code is amended to read:

7564. If, upon investigation, the director determines a licensee, including a corporation, or registrant is in violation of Section 7544.5, 7544.6, 7548, 7554.2, 7561.2, or 7566, the director may issue a citation to such licensee or registrant. The citation shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated. If the director deems it appropriate, the citation may contain an order of abatement fixing a reasonable time for abatement of the violation and may contain an assessment of an administrative fine. The amount of the fine shall in no event exceed one thousand dollars ($1,000) or as otherwise provided in this chapter, whichever is less.

A citation or fine assessment shall inform the licensee or registrant that if he or she contests the finding of a violation, they may request a review by a disciplinary review committee in accordance with Section 7517.2, if allowed under this chapter. If a review is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. If a review is not allowed under this chapter, a licensee or registrant may request a hearing 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 if he or she wishes to contest the findings of a violation and if a hearing is not requested, payment of any fines shall not constitute an admission of the violation charged.

If the licensee or registrant neither requests a review, if allowed under this chapter, or a hearing, nor pays the assessed fine within 30 days of the assessment, the license or registration of such person shall not be renewed pursuant to the provisions of this chapter until the assessed fine is paid.

Administrative fines collected pursuant to this article shall be deposited in the Private Investigator Fund.

SEC. 22. Section 7564.4 of the Business and Professions Code is repealed.

SEC. 23. 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 is twenty-five dollars ($25).

(b) The application fee for an original branch office certificate for a private investigator 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) 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 branch office certificate for a private investigator 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 security guard is eighteen dollars ($18).

(2) 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. 24. Section 7590.4 of the Business and Professions Code is repealed.

SEC. 25. Section 7592.4 of the Business and Professions Code is repealed.

SEC. 26. Section 7594.5 of the Business and Professions Code is amended to read:

7594.5. (a) The business of each licensee shall be operated under the active direction, control, charge, or management, in this state, of the licensee, if he or she is qualified, or the person who is qualified and certified to act as the licensee's manager, if the licensee is not qualified.

(b) The individual deemed to be actively in charge of the business shall be the qualified manager, as defined in this chapter, and the certificate of the qualified manager shall be prominently displayed below the alarm company operator's license. Such individual shall share equally with the licensee the responsibility for compliance with this chapter.

(c) The director may assess fines for any violations as enumerated in this article, pursuant to Section 7591.9. Fines may be assessed against an alarm company operator's license or a qualified manager's certificate, or both, as deemed appropriate by the director.

(d) Assessment of the 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.

SEC. 27. Section 7598 of the Business and Professions Code is repealed.

SEC. 28. Section 7598.17 of the Business and Professions Code is amended to read:

7598.17. All registrations which expire on or after January 1, 1985, shall be placed on a cyclical renewal and shall expire two years following the date of issuance or assigned renewal date. In order to implement the cyclical renewal, the population of registrants shall be divided into 24 equal groups, the registrations of those in each group to expire on the last day of each successive month. Notwithstanding any other provision of law, the bureau shall have authority to extend or shorten the first term of licensure following January 1, 1985, and to prorate the required license fee in order to implement this cyclical renewal. At least 60 days prior to the expiration of a registration, a registrant who desires to renew his or her registration shall forward to the bureau a copy of his or her current registration card, along with the renewal fee as set forth in this chapter, to the bureau for renewal of his or her registration.

The licensee shall provide to any employee information regarding procedures for renewal of registration.

An expired registration may be renewed provided the registrant files a renewal application on a form prescribed by the director and the renewal and delinquency fees prescribed by this chapter are returned to the bureau within 60 days of the expiration date of the registration. A firearms permit is not valid while the registration is expired.

A registration not renewed within 60 days following its expiration may not be renewed thereafter. The holder of the expired registration may obtain a new registration only on compliance with all of the provisions of this chapter relating to the issuance of an original registration. The delinquency fee is 50 percent of the renewal fee in effect on the date of expiration, but not less than twenty-five dollars ($25).

The holder of an expired registration shall not engage in the activity for which a registration is required until the bureau issues a renewal registration.

If the renewed registration card has not been delivered to the registrant, prior to the date of expiration of the prior registration, the registrant may present evidence of renewal to substantiate continued registration, for a period not to exceed 90 days after the date of expiration.

A registration shall not be renewed or reinstated until any and all fines assessed pursuant to Section 7591.9 and not resolved in accordance with the provisions of that section have been paid.

A new registration shall be issued subject to payment of any and all fines assessed pursuant to Section 7591.9 and not resolved in

accordance with the provisions of Section 7591.9 and payment of all applicable fees.

SEC. 29. Section 7599.36 of the Business and Professions Code is amended to read:

7599.36. Each licensee shall maintain a file or record containing the name, address, commencing date of employment, and position of each employee, and the date of termination. Such files and records shall be retained during the time of employment and for a period of not less than two years thereafter, and, together with usual payroll records, shall be available for inspection by the bureau, and copies thereof and information pertaining thereto or contained therein shall be submitted to the bureau upon written request. A violation concerning the maintenance of the files or records may result in a fine of twenty-five dollars ($25) for each violation. The bureau and the department shall not release the names or addresses to any persons other than governmental agencies that need the information for purposes required by law.

A failure of a licensee to respond to the bureau's request to forward copies of the files or records and information pertaining thereto or contained therein within 30 days of the bureau's request may result in a fine of twenty-five dollars ($25) and ten dollars ($10) for each additional day that elapses following the 30th day.

SEC. 30. Section 7599.54 of the Business and Professions Code is amended to read:

7599.54. Every agreement, including, but not limited to, lease agreements, monitoring agreements, and service agreements, including all labor, services, and materials to be provided for the installation of an alarm system, shall be in writing. All amendments subject to the provisions of this section to an initial agreement shall be in writing. Each initial agreement shall contain, but not be limited to, the following:

(a) The name, business address, business telephone number, and license number of the licensed alarm company operator and the registration number of any alarm agent who solicited or negotiated the agreement.

(b) The approximate dates when the work will begin and be substantially completed.

(c) A description of the work to be done, a description of the materials to be used, and the agreed consideration for the work.

(d) A disclosure that alarm company operators are licensed and regulated by the Bureau of Collection and Investigative Services, Department of Consumer Affairs, Sacramento, CA, 95814.

(e) A description of the alarm system including the major components thereof and services to be provided to the purchaser once the alarm is installed, including response or monitoring services, if any.

(f) Other matters agreed to by the parties of the contract. The agreement shall be legible and shall be in such form as to clearly describe any other document which is to be incorporated into the

contract, and, before any work is done, the client shall be furnished with a copy of the written agreement signed by the licensee.

(g) A statement setting forth that upon completion of the installation of the alarm system, the alarm company shall thoroughly instruct the purchaser in the proper use of the alarm system.

(h) In the event a mechanic's lien is to be utilized, a notice-to-owner statement 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 the office of a contractor's payment bond for private work.

(i) In addition to the above, every initial residential sales and lease agreement, the total cost which over the time period fixed by the agreement exceeds two hundred fifty dollars ($250), including the cost of all labor, service, or material to be provided by the licensee for the installation, shall include, but not be limited to, the following:

(1) A schedule of payments showing the amount of each payment as a sum in dollars and cents. This schedule of payments shall be referenced to the amount of work for services to be performed or to any materials or equipment to be supplied.

(2) If the payment schedule contained in the agreement provides for a down payment to be paid to the licensee by the owner or the tenant before commencement of the work, that down payment shall not exceed one thousand dollars ($1,000) or 10 percent of the contract price, excluding finance charges, whichever is the lesser.

(3) In no event shall the payment schedule provide that the licensee receive, nor shall the licensee actually receive, payment in excess of 100 percent of the value of the work performed on the project at any time, excluding finance charges, except that the licensee may receive an initial down payment authorized by paragraph (2). A failure by the licensee, without legal excuse, to substantially commence work within 20 days of the approximate date specified in the contract when work is to commence, shall postpone the next succeeding payment to the licensee for that period of time equivalent to the time between when substantial commencement was to have occurred and when it did occur.

(4) A notice-to-owner statement 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 the office of a contractor's payment bond for private work.

(5) A description of what constitutes substantial commencement

of work pursuant to the contract.

(6) A disclosure that failure by the licensee, without legal excuse, to substantially commence work within 20 days from the approximate date specified in the agreement when the work will begin is a violation of the Alarm Company Act.

(7) A disclosure informing the buyer of any potential permit fees which may be required by local jurisdictions concerning the monitoring of an existing alarm system.

(8) This section shall not be construed to prohibit the parties to a residential alarm system sale 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.

A violation of this section or failure to commence work pursuant to paragraph (6) of subdivision (h) may result in a fine of one hundred dollars ($100) for the first violation and a five hundred dollar ($500) fine for each subsequent violation.

SEC. 31. Section 9801 of the Business and Professions Code is amended to read:

9801. The following terms as used in this chapter have the meaning expressed in this section:

(a) "Person" includes firm, partnership, association, or corporation.

(b) "Department" means the Department of Consumer Affairs.

(c) "Director" means the Director of Consumer Affairs.

(d) "Bureau" means the Bureau of Electronic and Appliance Repair.

(e) "Chief" means the Chief of the Bureau of Electronic and Appliance Repair.

(f) "Service dealer" means a person who, for compensation, engages in, or holds himself or herself out to the public as offering services in, the business of:

(1) Repairing, servicing, or maintaining an electronic set normally used or sold for personal, family, household, or home office use.

(2) Installing, repairing, servicing, or maintaining equipment or a burglar alarm system for use in private motor vehicles.

(3) Installing, repairing, servicing, or maintaining television or radio receiver antennas, rotators, and accessories or direct satellite signal receiving equipment located on or adjacent to a residence and not involving a function which is subject to and regulated under the provisions of Chapter 9 (commencing with Section 7000).

(4) Repairing, servicing, or maintaining major appliances.

(g) "Equipment" for the purposes of this chapter means an electronic set, appliance, antenna, rotator, and accessories.

(h) "Electronic set" includes, but is not limited to, any television, radio, audio or video recorder or playback equipment, video camera, video game, video monitor, computer system, photocopier, facsimile machine, or cellular telephone normally used or sold for personal, family, household, or home office use.

(i) "Appliance" or "major home appliance" includes, but is not limited to, any refrigerator, freezer, range, microwave oven, washer, dryer, dishwasher, trash compactor, or room air conditioner normally used or sold for personal, family, household, or home office use, or for use in private motor vehicles.

(j) "Antenna" includes, but is not limited to, a resonant device designed especially for the purpose of capturing electromagnetic energy transmitted by direct satellite or commercial radio or television broadcasting facilities. An antenna, and its associated accessories, is not deemed to be a part of a set, and shall be considered, under this section, to be located outside or in the attic of a residence.

(k) "Rotator," when used in connection with an antenna installation or repair, includes, but is not limited to, an electromechanical device operated from a remote location to rotate an antenna on a horizontal plane. A rotator and its associated accessories is not deemed to be a part of a set and shall be considered under this section, with the exception of the directional control unit, to be located outside or in the attic of a residence.

(*l*) "Accessories," when used in connection with an antenna or rotator installation or repair, includes, but is not limited to, masts, towers, clamps, guy wires, eye hooks, standoff insulators, roof saddles, vent pipe mounts, chimney mount kits, signal amplifiers/boosters, multiset couplers, transmission lines, control cables, directional control units, and such other devices as may be used from time to time to effect such installation or repair.

(m) "Computer system" includes, but is not limited to, a central processing unit which performs data manipulation functions, and any associated peripheral devices, including, but not limited to, keyboards, display terminals, printers, or disk drives.

(n) "Video game" includes, but is not limited to, any electronic amusement device which utilizes a computer, microprocessor, or similar electronic circuitry and its own cathode ray tube or a television set or a monitor.

(o) "Direct satellite signal receiving equipment" includes, but is not limited to, receivers, down converters, amplifiers, and audio or video processors related to the reception of audio, video, or data signals broadcasted or rebroadcasted by communication satellites located in space.

(p) "Electronic repair industry" means those activities defined in paragraph (1), (2), or (3) of subdivision (f).

(q) "Appliance repair industry" means those activities defined in paragraph (4) of subdivision (f).

SEC. 32. Section 9803 of the Business and Professions Code is repealed.

SEC. 33. Section 9805 of the Business and Professions Code is amended to read:

9805. No person registered under this chapter shall be required to apply for a license pursuant to Chapter 9 (commencing with

Section 7000) if that person's activities consist only of (a) installing satellite antenna systems on residential structures or property, or (b) installing, repairing, servicing, or maintaining televisions, or an electronic set normally used or sold for personal, family, household, or home office use, or any appliances, and that installation, repair, service, or maintenance is not subject to and regulated under Chapter 9.

SEC. 34. Section 9806 of the Business and Professions Code is amended to read:

9806. (a) An automobile dealer or manufacturer, licensed pursuant to Chapter 4 (commencing with Section 11700) of Division 5 of the Vehicle Code shall not be required to be registered under this chapter where such dealer or manufacturer installs or replaces an electronic set or automobile burglar alarm as a function related to the sale or repair of a motor vehicle.

(b) No person registered pursuant to Chapter 20.3 (commencing with Section 9880) shall be required to register under this chapter where that person's activities are within the scope of his or her registration and consist of installing an electronic set or automobile burglar alarm system for use in private motor vehicles.

SEC. 35. Section 9807 of the Business and Professions Code is repealed.

SEC. 36. Section 9808 of the Business and Professions Code is repealed.

SEC. 37. Section 9811 of the Business and Professions Code is amended to read:

9811. The director, in accordance with the State Civil Service Act and Section 159.5, may appoint and fix the compensation of such clerical, inspection, investigation, and auditing personnel as well as a deputy chief, as may be necessary to carry out the provisions of this chapter. All such personnel shall perform their respective duties under the supervision and the direction of the chief.

SEC. 38. Section 9814 of the Business and Professions Code is amended to read:

9814. The director may establish and enforce such regulations as may be reasonable for the conduct of service dealers and for the general enforcement of the various provisions of this chapter in the protection of the public. The director may, by regulation, define the scope of the terms described in subdivisions (g) to (q), inclusive, of Section 9801 to include items of the same general nature or class as those enumerated therein. The director shall distribute to each registered service dealer copies of this chapter and of the regulations thereunder. Such regulations shall be adopted, amended, or repealed in accordance with the provisions of Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 39. Section 9830 of the Business and Professions Code is amended to read:

9830. Each service dealer shall pay the fee required by this

chapter for each place of business operated by him in this state and shall register with the bureau upon forms prescribed by the director. The forms shall contain sufficient information to identify the service dealer, including name, address, and other identifying data to be prescribed by the bureau. If the business is to be carried on under a fictitious name, such fictitious name shall be stated. If the service dealer is a partnership, identifying data shall be stated for each partner. If the service dealer is a corporation, data shall be included for each of the officers and directors of the corporation as well as for the individual in charge of each place of the service dealer's business in the State of California, subject to such regulations as the director may make.

SEC. 40. Section 9832 of the Business and Professions Code is amended to read:

9832. (a) Registrations issued under this chapter shall expire no more than 12 months after the issue date. The expiration date of registrations shall be set by the director in a manner to best distribute renewal procedures throughout the year.

(b) To renew an unexpired registration, the service dealer shall, on or before the expiration date of the registration, apply for renewal on a form prescribed by the director, and pay the renewal fee prescribed by this chapter.

(c) To renew an expired registration, the service dealer shall apply for renewal on a form prescribed by the director, pay the renewal fee in effect on the last regular renewal date, and, if the registration is renewed more than 30 days after it ceased to be valid, pay all accrued and unpaid delinquency and renewal fees.

(d) A registration which is delinquent more than two years may not be renewed. A service dealer with such a delinquent registration is required to reapply for registration. Renewal is effective on the date on which the application is filed and the renewal fee is paid. If there is a delinquency fee, renewal shall be effective upon payment of that fee.

(e) For purposes of implementing the distribution of the renewal of registrations throughout the year, the director may extend by not more than six months, the date fixed by law for renewal of a registration, except that in such event any renewal fee which may be involved shall be prorated in such a manner that no person shall be required to pay a greater or lesser fee than would have been required had the change in renewal dates not occurred.

SEC. 41. Section 9833 of the Business and Professions Code is amended to read:

9833. A registration shall cease to be valid if the service dealer fails to notify the bureau in writing, within 30 days, of any change to the information provided by the form specified in Section 9830. The service dealer shall not be required to notify the bureau of employee changes. The director shall make regulations prescribing the procedure for keeping such registration information current.

SEC. 42. Section 9841 of the Business and Professions Code is

amended to read:

9841. (a) The director may refuse to validate, or may invalidate temporarily or permanently the registration of a service dealer for any of the following acts or omissions done by himself or herself or any employee, partner, officer, or member of the service dealer and related to the conduct of his or her business:

(1) Making or authorizing any statement or advertisement 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.

(2) Making any false promises of a character likely to influence, persuade, or induce a customer to authorize the repair, installation, service, or maintenance of the equipment as specified by this chapter.

(3) Any other conduct which constitutes fraud or dishonest dealing.

(4) Conduct constituting incompetence or negligence.

(5) Failure in any material respect to comply with the provisions of this chapter or regulations thereunder.

(6) Any willful departure from or disregard of accepted trade standards for good and workmanlike installation or repair.

(7) Conviction of a crime which has a substantial relationship to the qualifications, functions and duties of a registrant under this chapter, in which event the record of the conviction shall be conclusive evidence thereof.

(b) The director may also refuse to validate, or may invalidate temporarily or permanently, the registration of a service dealer if the applicant or registrant, as the case may be, has committed acts or crimes constituting grounds for denial of licensure under Section 480.

(c) The director may also refuse to validate, or may invalidate temporarily or permanently, the registration of a service dealer if the applicant or registrant, as the case may be, will be or is holding the registration for the benefit of a former registrant whose registration has been suspended or revoked and who will continue to have some involvement in the applicant's or new registrant's business.

SEC. 43. Section 9842 of the Business and Professions Code is amended to read:

9842. All work done by a service dealer shall be recorded on an invoice in such detail as is required by regulations issued by the director and shall describe all service work done and all parts supplied. If any used parts are supplied, the invoice shall clearly state that fact. One copy shall be given to the customer and one copy shall be retained by the service dealer for a period of at least three years.

SEC. 44. Section 9845 of the Business and Professions Code is amended to read:

9845. A service dealer may not make the compensation of any employee, partner, officer, or member dependent upon the value of parts replaced in any equipment by, or with the consent of, such employee, partner, officer, subcontractor, or member. This does not include the sale of equipment as defined in subdivision (h) of Section

9801.

SEC. 45. Section 9847 of the Business and Professions Code is amended to read:

9847. Each service dealer shall maintain such records as are required by the regulations adopted to carry out the provisions of this chapter for a period of at least three years. Such records shall be open for reasonable inspection by the director or other law enforcement officials.

SEC. 46. Section 9850 of the Business and Professions Code is amended to read:

9850. Any person who fails to comply with the provisions of this chapter or of the regulations made pursuant to this chapter is guilty of a misdemeanor and punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment not exceeding six months, or by both such fine and imprisonment.

SEC. 47. Section 9862 of the Business and Professions Code is repealed.

SEC. 48. Section 9880.1 of the Business and Professions Code is amended to read:

9880.1. The following terms as used in this chapter have the meaning expressed in this section.

(a) "Automotive repair dealer" means a person who, for compensation, engages in the business of repairing or diagnosing malfunctions of motor vehicles.

(b) "Chief" means the Chief of the Bureau of Automotive Repair.

(c) "Bureau" means the Bureau of Automotive Repair.

(d) "Motor vehicle" means a passenger vehicle required to be registered with the Department of Motor Vehicles and all motorcycles whether or not required to be registered by the Department of Motor Vehicles.

(e) "Repair of motor vehicles" means all maintenance of and repairs to motor vehicles performed by an automotive repair dealer including automotive body repair work, but excluding those repairs made pursuant to a commercial business agreement and also excluding repairing tires, changing tires, lubricating vehicles, installing light bulbs, batteries, windshield wiper blades and other minor accessories, cleaning, adjusting, and replacing spark plugs, replacing fan belts, oil, and air filters, and other minor services, which the director, by regulation, determines are customarily performed by gasoline service stations.

No service shall be designated as minor, for purposes of this section, if the director finds that performance of the service requires mechanical expertise, has given rise to a high incidence of fraud or deceptive practices, or involves a part of the vehicle essential to its safe operation.

(f) "Person" includes firm, partnership, association, or corporation.

(g) A "mechanic" is an employee of an automotive repair dealer or is that dealer, if the employer or dealer repairs motor vehicles and

who for salary or wage performs maintenance, repair, removal, or installation of any integral component parts of an engine, driveline, chassis or body of any vehicle, but excluding repairing tires, changing tires, lubricating vehicles, installing light bulbs, batteries, windshield wiper blades, and other minor accessories; cleaning, replacing fan belts, oil and air filters; and other minor services which the director, by regulation, determines are customarily performed by a gasoline service station.

(h) "Director" means the Director of Consumer Affairs.

(i) "Commercial business agreement" means an agreement, whether in writing or oral, entered into between a business or commercial enterprise and an automobile repair dealer, prior to the repair which is requested being made, which agreement contemplates a continuing business arrangement under which the automobile repair dealer is to repair any vehicle covered by the agreement, but does not mean any warranty or extended service agreement normally given by an automobile repair facility to its customers.

SEC. 49. Section 9882.7 of the Business and Professions Code is repealed.

SEC. 50. Section 9882.8 of the Business and Professions Code is repealed.

SEC. 51. Section 9882.9 of the Business and Professions Code is repealed.

SEC. 52. Section 9882.10 of the Business and Professions Code is repealed.

SEC. 53. Section 9882.11 of the Business and Professions Code is repealed.

SEC. 54. Section 9882.12 of the Business and Professions Code is repealed.

SEC. 55. Section 9882.13 of the Business and Professions Code is repealed.

SEC. 56. Section 9891.1 of the Business and Professions Code is amended to read:

9891.1. For the purposes of this chapter, the following words have the following meanings:

(a) (1) Except as otherwise provided in paragraph (2), "tax preparer" includes:

(A) Any person who, for a fee, assists with or prepares tax returns for another person or who assumes final responsibility for completed work on a return on which preliminary work has been done by another person, or who holds himself or herself out as offering those services. Each person engaged in such activity shall be deemed to be a separate person for the purposes of this chapter, irrespective of affiliation with or employment by another tax preparer.

(B) Any corporation, partnership, association, or other entity which has associated with it persons not exempted from this chapter under Section 9891.2, which persons shall have as part of their responsibilities the preparation of data and ultimate signatory

authority on tax returns or which holds itself out as offering those services or having that authority.

(2) Notwithstanding paragraph (1), "tax preparer" does not include an employee who, as part of the regular clerical duties of his or her employment, prepares his or her employer's income, sales, or payroll tax returns.

(b) "Administrator" means the official appointed by the Governor to head the program.

(c) "Director" means the Director of the Department of Consumer Affairs.

(d) "Fee" means any money or valuable consideration paid or promised to be paid for services rendered or promised to be rendered by any tax preparer.

(e) "Person" includes an individual, firm, partnership, association, joint venture, corporation, or any combination thereof.

(f) "Program" includes all procedures, regulations, and activities authorized by or associated with this chapter.

(g) "Registrant" includes any tax preparer not specifically exempted by Section 9891.2, and those persons otherwise entitled to exemption under Section 9891.2 who have voluntarily expressed desire to be registered under the program.

(h) "Tax return" means any return, declaration, statement, refund claim or other document required to be made or filed in connection with state or federal income taxes or state bank and corporation franchise taxes.

SEC. 57. Section 9891.12 of the Business and Professions Code is amended to read:

9891.12. The administrator shall maintain a record of registered tax preparers. The record shall include a list of the names and addresses of the tax preparer locations of all registered tax preparers, which list is a public record and open to public inspection at reasonable times.

SEC. 58. Section 9891.2 of the Business and Professions Code is amended to read:

9891.2. The following persons are exempt from the requirements of this chapter:

(a) Any person with a current and valid license issued by the State Board of Accountancy and his or her employees while functioning within the scope of their employment.

(b) Any person who is an active member of the State Bar of California and his or her employees while functioning within the scope of their employment.

(c) Employees of any trust company or trust business as defined in Chapter 1 (commencing with Section 99) of Division 1 of the Financial Code while functioning within the scope of their employment.

(d) Financial institutions regulated by the state or federal government, and employees thereof, insofar as the activities of the employees are related to their employment and the activities of the

financial institution with respect to tax preparation are subject to federal or state examination or oversight.

(e) Any person who is enrolled to practice before the Internal Revenue Service pursuant to Subpart A (commencing with Section 10.1) of Part 10 of Title 31 of the Code of Federal Regulations, and his or her employees while functioning within the scope of their employment.

SEC. 59. Section 9891.20 of the Business and Professions Code is amended to read:

9891.20. (a) Every tax preparer shall register upon forms prescribed by the administrator. The forms shall contain sufficient information to identify the tax preparer, including name, address, identification numbers, and other identifying data which is prescribed by the administrator.

(b) An applicant for registration as a tax preparer who is an individual shall comply with all of the following requirements:

(1) Be at least 18 years of age.

(2) Possess a high school diploma or have passed an equivalency examination.

(3) Present evidence to the administrator of either of the following:

(A) Completion within the previous 18 months of not less than 60 hours of instruction in basic personal income tax law, theory and practice. The instruction shall be given in subjects and in a setting approved by the administrator.

(B) At least two years experience in the preparation of personal income tax returns acceptable to the administrator as being the equivalent of 60 hours of instruction in personal income tax law. Tax preparation performed in situations that violate this chapter by an individual who is neither registered nor exempted, may not be used toward the qualifying experience needed for registration as a tax preparer.

(c) If any of the information required by this section changes, the tax preparer shall promptly notify the administrator of the changes.

SEC. 60. Section 9891.201 is added to the Business and Professions Code, to read:

9891.201. Every person who provides or offers to provide tax preparation services subject to this chapter, as a partnership, corporation, or other organization, or any combination thereof, shall designate an individual who holds a tax preparer's registration to act as its qualifying manager. The designated qualifying manager shall supervise the daily business of the company and shall be available to supervise and assist all employees of the registered company, in accordance with regulations adopted by the director.

If the qualifying manager ceases for any reason to be connected with a registered company, the company shall notify the administrator, in writing, within 10 days from that cessation. If that notice is given, the company registration shall remain in force for 30 days, during which period the company shall submit to the

administrator, in writing, the name of another qualified manager.

SEC. 61. Section 9891.203 is added to the Business and Professions Code, to read:

9891.203. (a) Any person maintaining more than one tax preparer location shall be permitted to file a single form prescribed by the administrator which, in addition to the information required in Section 9891.202, clearly designates each location, identifying one location as the principal branch and all others as branch offices, and the individual who has been designated as the supervisor of each branch office. A tax preparer shall not be permitted to conduct business at a location which has not been filed with the administrator.

(b) Each branch office shall have a branch supervisor designated by the tax preparer to supervise and assist the tax preparer's employees who are located at that branch. The branch supervisor shall be an individual who holds a tax preparer's registration.

If the branch supervisor ceases for any reason to be connected with a tax preparer, the tax preparer shall notify the administrator, in writing, within 10 days from that cessation. If that notice is given, the company branch office registration shall remain in force for 30 days, during which period the tax preparer must submit to the administrator, in writing, the name of another qualified branch supervisor.

(c) Whenever a tax preparer opens a branch office, he or she shall notify the administrator, in writing, on a form prescribed by the administrator. The notification shall include the name of the individual designated as the branch supervisor and shall be submitted with the fee for a branch office prescribed by this chapter.

SEC. 62. Section 9891.204 is added to the Business and Professions Code, to read:

9891.204. (a) The registration of the designated qualifying manager shall be prominently displayed in the tax preparer's office.

(b) The branch office registration and the registration of the branch supervisor shall be prominently displayed in each branch office.

SEC. 63. Section 9891.21 of the Business and Professions Code is amended to read:

9891.21. (a) Any person engaged in the activity of a tax preparer, as defined in this chapter, and not exempted from this chapter under Section 9891.2, shall be required to register with the administrator of the program annually and pay fees as designated by the administrator under authority of Article 6 (commencing with Section 9891.40).

(b) Any person eligible for exemption from this chapter under Section 9891.2 may voluntarily register by application to the administrator and payment of appropriate fees. Those voluntary registrants shall be required to comply with all requirements as pertain to nonvoluntary registrants.

SEC. 64. Section 9891.23 of the Business and Professions Code is amended to read:

9891.23. (a) Every registration shall cease to be valid on October 31, unless the tax preparer has paid the renewal fee required by this chapter.

(b) Except as otherwise provided in this chapter, an expired registration may be renewed at any time within one year after its expiration on filing of: (1) application for renewal on a form prescribed by the administrator; (2) payment of any delinquency fees as prescribed by this chapter; (3) proof of compliance with the continuing education requirements since the expiration of the registration; and (4) if the registrant or certificate holder has been practicing in this state with an expired or delinquent license, then he or she shall pay all accrued and unpaid renewal fees.

SEC. 65. Section 9891.24 of the Business and Professions Code is amended to read:

9891.24. (a) It shall be unlawful for any person to be a tax preparer unless he or she is registered in accordance with the provisions of this chapter.

(b) Any person who violates this section is guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or jail for a period of not more than 60 days, or both, for each violation of this section.

SEC. 66. Section 9891.25 of the Business and Professions Code is amended to read:

9891.25. (a) The director may refuse to validate or may, after a hearing, suspend or revoke, temporarily or permanently, the registration of a tax preparer for any of the following acts or omissions relating to preparing tax returns for others for a fee by any registrant:

(1) Making, or authorizing the making of, any statement or representation, oral or written or recorded by any means, which is intended to induce persons to use the tax preparation service of the tax preparer, which statement or representation is fraudulent, untrue, or misleading.

(2) Obtaining the signature of a customer to a tax return or authorizing document which contains blank spaces to be filled in after it has been signed.

(3) Failing or refusing to give a customer, for his or her own records, a copy of any document requiring his or her signature, within a reasonable time after the customer signs such document.

(4) Failing to maintain a copy of any tax return prepared for a customer for four years from the date of completion or the due date of the return, whichever is later.

(5) Engaging in any fraudulent conduct.

(6) Engaging in advertising practices which are fraudulent, untrue, or misleading, including, but not limited to, assertions that registration in any way implies licensure or endorsement of a tax preparer by the State of California.

(7) Failing to report changes in the information required by

Section 9891.20 within 60 days.

(8) Violating the provisions of Section 17530.5.

(9) Violating the provisions of Section 7216 of Title 26 of the United States Code.

(10) Failing to post the certificate of registration in the tax preparer's place of business so that it may easily be read by customers.

(11) Failing to sign a customer's tax return as prescribed by the administrator.

(12) Gross negligence.

(13) Failing to return, upon the demand by or on behalf of a client and after payment for services rendered, records or other data provided to the tax preparer by the client.

(14) Willfully misrepresenting any material fact in an application for registration or renewal of registration.

(15) Failing to provide to the administrator by October 31 proof of compliance with continuing education requirements for the current year, unless the registrant has previously specified inactive status pursuant to Section 9891.34.

(b) In addition to the grounds specified in subdivision (a), the director may, after a hearing, refuse to validate or may suspend or revoke, temporarily or permanently, the registration of a tax preparer if he or she enters a plea of guilty or nolo contendere to, or if he or she has been convicted of a crime which is substantially related to the qualifications, functions or duties of a tax preparer, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following the conviction, or suspending the imposition of sentence, or of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty, or setting aside the plea or verdict of guilty, or dismissing the accusation or information.

SEC. 67. Section 9891.27 of the Business and Professions Code is amended to read:

9891.27. (a) If the administrator determines that a registrant has committed one or more violations of this chapter which require disciplinary action, the administrator shall file an accusation as required by the procedure specified in Section 9891.29. Upon receiving notice of the accusation, any registrant may, in addition request a hearing in accordance with Section 9891.29.

(b) As a condition of accepting an assurance of voluntary compliance, the administrator shall require that the registrant establish procedures which will enable him or her to avoid future violations. The administrator may impose such additional requirements upon the registrant as a condition of accepting an assurance of voluntary compliance as may be necessary to protect the public interest and the interests of those persons for whom the registrant has prepared tax returns.

(c) If the administrator accepts an assurance of voluntary

compliance from a registrant, he or she shall not proceed with disciplinary action against the registrant for the same alleged violations. An assurance of voluntary compliance shall not be evidence of a prior violation of this chapter. However, if the registrant violates the terms of an assurance of voluntary compliance, the violation shall constitute sufficient grounds for the administrator to revoke or suspend the tax preparer's registration.

SEC. 68. Section 9891.29 of the Business and Professions Code is amended to read:

9891.29. All hearings relating to a refusal to validate a registration, or revocation or suspension of a registration, shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. Any accusation or statement of issues in connection with those proceedings shall be prepared and served by the administrator. Any proposed decision rendered by an administrative law judge shall be submitted to the director for adoption, modification, or rejection.

SEC. 69. Section 9891.34 of the Business and Professions Code is amended to read:

9891.34. (a) Any registrant otherwise in good standing may exempt himself or herself from subsequent year bonding and registration fee and continuing education requirements by notifying the administrator of the desire for that status by October 31 of any year.

(b) No registrant in inactive status shall engage in activities of a tax preparer unless he or she is qualified for exemption from this chapter under Section 9891.2.

(c) Any registrant in inactive status may be returned to active status by complying with applicable bonding fees and continuing education requirements for the year in which registration to active status is desired, as well as other requirements as may be specified by the administrator.

SEC. 70. Section 9891.35 of the Business and Professions Code is amended to read:

9891.35. (a) A tax preparer shall deposit with the director, prior to registration or registration renewal, a bond executed by an admitted surety insurer payable to the people of the State of California in the penal sum of five thousand dollars ($5,000) for each individual preparing tax returns for the tax preparer. The bond shall be conditioned that the person applying for registration or registration renewal will comply with this chapter and will pay all damages occasioned to any person by reason of misstatement, misrepresentation, fraud, deceit or any unlawful acts or omissions by the tax preparer, or the tax preparers employed or associated with it to provide tax preparation services subject to this chapter.

(b) A tax preparer employed or associated with a tax preparer shall be covered by the bond of the tax preparer with which he or she is employed or associated. However, in no event shall the total bond required for any single tax preparer and the tax preparers

employed or associated with it be required to exceed one hundred twenty-five thousand dollars ($125,000).

SEC. 71. Section 9891.37 of the Business and Professions Code is amended to read:

9891.37. The administrator shall issue certificates of registration to registrants on the following basis:

(a) For an initial period which shall last no later than the next subsequent October 31 after the date of initial registration upon a showing by the registrant of compliance with bonding requirements, satisfactory fulfillment of minimum registration requirements as listed in subdivision (c) of Section 9891.20, and the payment of required fees.

(b) For subsequent one-year periods upon showing of continued compliance with bonding requirements, payment of required fees, and compliance with continuing education requirements.

SEC. 72. Section 9891.38 of the Business and Professions Code is amended to read:

9891.38. A registration which is not renewed within one year after its expiration may not be renewed, restored, reissued or reinstated thereafter, but the registrant may apply for and obtain a new registration if:

(a) No fact, circumstance or condition exists which, if the registration were issued, would justify its revocation or suspension.

(b) The applicant pays all of the fees which would be required of the applicant if the applicant were applying for the first time.

(c) The applicant meets the requirements for registration which would be required of the applicant if the applicant were then applying for the first time, or otherwise establishes to the satisfaction of the administrator that the applicant is qualified to be a tax preparer.

SEC. 73. Section 9891.39 of the Business and Professions Code is amended to read:

9891.39. (a) The program shall evaluate and consider courses and activities eligible for continuing education credit related to the tax preparation field submitted to him or her for approval and shall either endorse or decline to endorse those programs within 90 days of submission. A listing of approved courses and activities shall be made available upon request to registrants and shall be updated monthly.

(b) Registrants under the program shall be required to establish by October 31 of each registration year that they have successfully completed at least 20 hours of continuing education in courses approved for continuing education by the administrator.

SEC. 74. Section 9891.42 of the Business and Professions Code is amended to read:

9891.42. The fees prescribed by this chapter shall be set by the administrator in an amount estimated to provide for the administration of this chapter within the limits of the following schedule:

(a) The tax preparer registration fee for an individual tax preparer or a registered company shall be established by the administrator at a sum not more than fifty dollars ($50) per registrant.

(b) If a registered company maintains more than one tax preparer location within this state, an additional fee shall be established by the administrator at a sum not more than twenty-five dollars ($25) for each additional location.

(c) The annual renewal fees for a tax preparer registration shall be established by the administrator at amounts not to exceed the schedule for registration fees, if the registration is renewed prior to its expiration date.

(d) The penalty fee for renewal of a registration that is not renewed prior to its expiration date shall be the lesser of twenty-five dollars ($25) or 50 percent of the renewal fee required for a registration renewal prior to its expiration date.

SEC. 75. Section 9891.50 of the Business and Professions Code is repealed.

SEC. 76. Section 19006.1 is added to the Business and Professions Code, to read:

19006.1. "Seating furniture," including children's furniture, movable or stationary, means any furniture, which is made or sold with or without filling material, together with the structural units, which may be used as a support for the body, limbs, or feet when sitting or resting in an upright or reclining position.

SEC. 77. Section 19035.3 of the Business and Professions Code is repealed.

SEC. 78. Section 19051 of the Business and Professions Code is amended to read:

19051. Every upholstered-furniture retailer, unless he or she holds a furniture manufacturer's license, a wholesale furniture dealer's license, a custom upholsterer's license, or a retail furniture and bedding dealer's license shall hold a retail furniture dealer's license.

SEC. 79. Section 19055 of the Business and Professions Code is amended to read:

19055. Every bedding retailer, unless he or she holds a bedding manufacturer's license, a wholesale bedding dealer's license, a bedding renovator's license, or a retail furniture and bedding dealer's license, shall hold a retail bedding dealer's license.

SEC. 80. Section 19072 of the Business and Professions Code is amended to read:

19072. Responsibility for compliance with this chapter rests not only with the manufacturer but also with the wholesaler, retailer, or any person having in his or her possession any article of upholstered furniture or bedding, or filling materials with intent to resell contrary to the provisions of this chapter.

SEC. 81. Section 19072.5 of the Business and Professions Code is repealed.

SEC. 82. Section 19072.5 is added to the Business and Professions Code, to read:

19072.5. Wholesalers and retailers shall not sell or resell in California unlabeled upholstered furniture or bedding. Wholesalers and retailers shall obtain labels from the manufacturer of those articles and shall affix the labels before offering any upholstered furniture or bedding for sale.

SEC. 83. Section 19072.7 is added to the Business and Professions Code, to read:

19072.7. Aiding, abetting, or knowingly combining or conspiring with an unlicensed person engaged in a business regulated by this chapter, to evade the provisions of this chapter, or allowing one's license or registry number to be used by an unlicensed person to evade the provisions of this chapter is grounds for disciplinary action.

SEC. 84. Section 19151 of the Business and Professions Code is amended to read:

19151. No person licensed under this chapter shall advertise an article of upholstered furniture or bedding, or any part thereof, including, but not limited to, headboards, footboards, or frames of beds, using in such advertisement an illustration of an article that is not the article advertised unless the illustration is coupled with a statement that the article advertised is not as illustrated, the statement to be printed in type of at least nine-point bold caps or the equivalent thereto.

SEC. 85. Section 19161 of the Business and Professions Code is amended to read:

19161. All mattresses manufactured for sale in this state, including any mattress manufactured for sale for use in a hotel, motel, or other place of public accommodation in this state, shall be fire retardant. All seating furniture sold or offered for sale by a manufacturer or wholesaler for use in this state, including any seating furniture sold to or offered for sale for use in a hotel, motel, or other place of public accommodation in this state, and reupholstered furniture to which filling materials are added, shall be fire retardant and shall be labeled in a manner specified by the bureau. "Fire retardant," as used in this section, means a product that meets the regulations adopted by the bureau.

SEC. 85.5. Section 19170 of the Business and Professions Code is amended to read:

19170. (a) The fee imposed for the issuance and for the biennial renewal of each license granted under this chapter shall be set by the chief, with the approval of the director, at a sum not more nor less than that shown in the following table:

	Maximum fee	Minimum fee
Furniture manufacturer's license	$540	$120
Wholesale furniture dealer's license	540	120
Bedding manufacturer's license	540	120
Wholesale bedding dealer's license	540	120
Supply dealer's license	540	120
Custom upholsterer's license	360	80
Bedding renovator's license	360	80
Sanitizer's license	360	80
Retail furniture and bedding dealer's license	240	40
Retail furniture dealer's license	120	20
Retail bedding dealer's license	120	20

(b) A person who has paid the required fee and who is duly licensed as a furniture manufacturer, a custom upholsterer, a bedding manufacturer or a bedding renovator under this chapter shall not be required to pay, in addition, the fee prescribed herein for a sanitizer's license.

(c) Individuals who, in their own homes and without the employment of any other person, make, sell, advertise, or contract to make pillows, quilts, quilted pads, or comforters are exempt from the fee requirements imposed by subdivision (a). However, such individuals must comply with all other provisions of this chapter.

(d) It is the intent of the Legislature that upon the enactment of the amendments to this section, the two hundred twenty-four thousand dollars ($224,000) unallocated reduction proposed in the 1993–94 Governor's Budget shall be restored to the Bureau of Home Furnishings and Thermal Insulation Fund.

SEC. 86. Section 19170.5 of the Business and Professions Code is amended to read:

19170.5. Except as provided in Section 19170.3, licenses issued under this chapter expire two years from the date of issuance. To renew his or her license, a licensee shall, on or before the date on which it would otherwise expire, apply for renewal on a form prescribed by the chief, and pay the fee prescribed by Section 19170 and Section 19213.1. If a licensee fails to renew his or her license before its expiration, a delinquency fee of 20 percent, but not more than one hundred dollars ($100), notwithstanding the provisions of Section 163.5, shall be added to the renewal fee. If the renewal fee and delinquency fee are not paid within 90 days after expiration of a license, the licensee shall be assessed an additional penalty fee of 30 percent of the renewal fee. A license which is not renewed within one year of its expiration shall be canceled but the holder of a license may apply to have a license restored, reinstated, or reissued if all of the following within are satisfied:

(a) No fact, circumstance, or condition exists which would justify denial of licensure under Section 480.

(b) He or she pays all of the fees which would be required of any person then applying for that license for the first time.

(c) He or she pays all delinquent and penalty fees which have accrued.

(d) No change of ownership has occurred.

(e) The additional penalty fee shall only apply to those licenses which expire on or after January 1, 1992.

SEC. 87. Section 19172 of the Business and Professions Code is amended to read:

19172. A person may not obtain a new license of the same class as the license held during the last preceding license period, but may renew the license previously held by him or her on payment of the renewal fee and delinquency fee in effect on the last regular renewal date before the date on which he or she applies for renewal provided the license has not been canceled in accordance with Section 19170.5.

SEC. 88. Section 19175 of the Business and Professions Code is repealed.

SEC. 89. Section 19205 of the Business and Professions Code is amended to read:

19205. The failure of any person to produce upon demand of an inspector any article that has been condemned and ordered held on a notice of violation signed by such person, or a notice of violation that the person has refused to sign, is a violation of this chapter.

SEC. 90. Section 19206 of the Business and Professions Code is amended to read:

19206. No person shall interfere with, obstruct or otherwise hinder any inspector of the bureau or of the department's Division of Investigation in the performance of his or her duties.

SEC. 91. Section 19208 of the Business and Professions Code is amended to read:

19208. The chief may cite any person subject to the provisions of this chapter to a hearing before the chief to show cause why he or she should not be subject to disciplinary action or prosecution for any act or omission in violation of this chapter.

SEC. 92. Section 19213 of the Business and Professions Code is amended to read:

19213. The bureau may monitor compliance with all insulation standards, including those adopted by the Energy Resources Conservation and Development Commission, pursuant to Section 25402 of the Public Resources Code, by conducting periodic inspections with its own personnel, or by requiring inspections conducted by an approved independent third party laboratory, of manufacturers, distributors, or retailers of insulation material sold within the state in order to determine their compliance with this article. The bureau shall annually test all categories of insulation products for which standards have been adopted. The bureau may require those manufacturers, distributors, or retailers that are

inspected and found not in compliance with this article, or any regulation implementing it, to pay such reasonable fees as are necessary to cover the costs of inspections and testing necessary to investigate and enforce compliance by those manufacturers, distributors, and retailers. Fees shall be fixed in an amount not more than the cost of testing and inspection with a minimum fee of two hundred dollars ($200) for each test or inspection. The bureau may also conduct, or contract with approved independent third party laboratories to conduct, independent performance tests of insulation materials sold in the state, in order to determine compliance with its adopted standards. Where a fee is not paid, the full amount of the assessed fee shall be added to the fee for the renewal of a license. A license shall not be renewed without payment of the renewal fee and all fees for testing and inspection.

SEC. 93. Section 19213.1 of the Business and Professions Code is amended to read:

19213.1. The bureau may require a licensee who sells or manufactures furniture and bedding products that are inspected and found not to be in compliance with this chapter, or any regulation implementing it, to pay those reasonable fees as are necessary to cover the costs of inspections and testing necessary to investigate and enforce compliance by those licenses. Fees shall be fixed in an amount not more than the cost of testing and inspection except that the minimum fee shall be two hundred dollars ($200) for each test or inspection. The range of fees for testing or inspection shall be fixed by the bureau in an amount not less than two hundred dollars ($200) and not more than five hundred dollars ($500) for each test or inspection. Where a fee is not paid, the full amount of the assessed fee shall be added to the fee for the renewal of a license. A license shall not be renewed without payment of the renewal fee and all fees for testing and inspection.

SEC. 94. Section 19220 of the Business and Professions Code is amended to read:

19220. Every person who violates any of the provisions of this chapter is guilty of a misdemeanor and punishable for each offense by a fine of not less than five hundred dollars ($500) nor more than one thousand five hundred dollars ($1,500) or by imprisonment for not less than three nor more than six months or by both such fine and imprisonment.

SEC. 95. 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) 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. The court may issue a conditional judgment. The court 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 two thousand five hundred dollars ($2,500).

(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. 96. Chapter 1.5 (commencing with Section 1249.5) of Division 2 of the Health and Safety Code is repealed.

SEC. 97. 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 1265

An act to amend Sections 9830, 9832, and 9847 of, to amend, repeal, and add Sections 9849, 9851, 9853, 9860, 9863, and 9873 of, to add and repeal Sections 146.5, 9830.5, 9832.5, 9847.5, and 9862.5 of, and to add and repeal Article 4.5 (commencing with Section 9855) of Chapter 20 of Division 3 of, the Business and Professions Code, to amend, repeal, and add Sections 1791 and 1794.4 of the Civil Code, and to amend Section 6254 of the Government Code, relating to electronic and appliance repair.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 146.5 is added to the Business and Professions Code, to read:

146.5. (a) Notwithstanding any other provision of law, a violation of any code section listed in subdivision (c) is an infraction subject to the procedures described in Sections 19.6 and 19.7 of the Penal Code when either of the following occur:

(1) A complaint or a written notice to appear in court pursuant to Chapter 5c (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code is filed in court charging the offense as an infraction unless the defendant, at the time he or she is arraigned, after being advised of his or her rights, elects to have the case proceed as a misdemeanor.

(2) The court, with the consent of the defendant and the prosecution, determines that the offense is an infraction in which event the case shall proceed as if the defendant has been arraigned on an infraction complaint.

(b) Subdivision (a) does not apply to a violation of the code sections listed in subdivision (c) if the defendant has had his or her license, registration, or certificate previously revoked or suspended.

(c) The following sections require registration, licensure, certification, or other authorization in order to engage in certain businesses or professions regulated by this code:

(1) Section 2630.
(2) Section 2903.
(3) Sections 3760 and 3761.
(4) Section 4825.
(5) Section 4980.
(6) Section 4996.
(7) Section 5536.
(8) Section 6704.
(9) Section 6980.10.
(10) Section 7317.
(11) Section 7502 or 7592.
(12) Section 7617 or 7641.
(13) Subdivision (a) of Section 7872.
(14) Section 8016.
(15) Section 8505.
(16) Section 8725.
(17) Section 9681.
(18) Section 9840.
(19) Section 9855.1.
(20) Section 9884.6.
(21) Subdivision (c) of Section 9891.24.
(22) Section 19049.

(d) Notwithstanding any other provision of law, a violation of any of the sections listed in subdivision (c), which is an infraction, is punishable by a fine of not less than two hundred fifty dollars ($250)

and not more than one thousand dollars ($1,000). No portion of the minimum fine may be suspended by the court unless as a condition of that suspension the defendant is required to submit proof of a current valid license, registration, or certificate for the profession or vocation which was the basis for his or her conviction.

This section 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. 1.5. Section 9830 of the Business and Professions Code is amended to read:

9830. Each service dealer shall pay the fee required by this chapter for each place of business operated by him or her in this state and shall register with the bureau upon forms prescribed by the director. The forms shall contain sufficient information to identify the service dealer, including name, address, a copy of the certificate of qualification as filed with the Secretary of State if the service dealer is a foreign corporation, and other identifying data to be prescribed by the bureau. If the business is to be carried on under a fictitious name, that fictitious name shall be stated. If the service dealer is a partnership, identifying data shall be stated for each partner. If the service dealer is a private company that does not file an annual report on Form 10-K with the Securities and Exchange Commission, data shall be included for each of the officers and directors of the company as well as for the individual in charge of each place of the service dealer's business in the State of California, subject to such regulations as the director may make. If the service dealer is a publicly held corporation or a private company that files an annual report on Form 10-K with the Securities and Exchange Commission, it shall be sufficient to file with the director the most recent annual report on Form 10-K that is filed with the Securities and Exchange Commission.

A service dealer who does not operate a place of business in this state, but who engages in the electronic repair industry or the appliance repair industry in this state, shall hold a valid registration issued by the bureau and shall pay the registration fee required by this chapter as if he or she had a place of business in this state.

SEC. 1.7. Section 9830.5 is added to the Business and Professions Code, to read:

9830.5. Each service contractor shall pay the fee required by this chapter for each place of business operated by him or her in this state and shall register with the bureau upon forms prescribed by the director. The forms shall contain sufficient information to identify the service contractor, including name, address, a copy of the certificate of qualification as filed with the Secretary of State if the service contractor is a foreign corporation, and other identifying data to be prescribed by the bureau. If the business is to be carried on under a fictitious name, that fictitious name shall be stated. If the service contractor is a partnership, identifying data shall be stated for each partner. If the service contractor is a private company that does

not file an annual report on Form 10-K with the Securities and Exchange Commission, data shall be included for each of the officers and directors of the company as well as for the individual in charge of each place of the service contractor's business in the State of California, subject to such regulations as the director may make. If the service contractor is a publicly held corporation or a private company that files an annual report on Form 10-K with the Securities and Exchange Commission, it shall be sufficient to file with the director the most recent annual report on Form 10-K that is filed with the Securities and Exchange Commission.

A service contractor who does not operate a place of business in this state but who sells, issues, or administers service contracts in this state, shall hold a valid registration issued by the bureau and shall pay the registration fee required by this chapter as if he or she had a place of business in this state.

This section 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. 2. Section 9832 of the Business and Professions Code is amended to read:

9832. (a) Registrations issued under this chapter shall expire no more than 12 months after the issue date. The expiration date of registrations shall be set by the director in a manner to best distribute renewal procedures throughout the year.

(b) To renew an unexpired registration, the service dealer shall, on or before the expiration date of the registration, apply for renewal on a form prescribed by the director, and pay the renewal fee prescribed by this chapter.

(c) To renew an expired registration, the service dealer shall apply for renewal on a form prescribed by the director, pay the renewal fee in effect on the last regular renewal date, and, if the registration is renewed more than 30 days after it ceased to be valid, pay all accrued and unpaid delinquency and renewal fees.

(d) A registration which is delinquent more than two years may not be renewed. A service dealer with a delinquent registration is required to reapply for registration. Renewal is effective on the date on which the application is filed and the renewal fee is paid. If there is a delinquency fee, renewal shall be effective upon payment of that fee.

(e) For purposes of implementing the distribution of the renewal of registrations throughout the year, the director may extend by not more than six months, the date fixed by law for renewal of a registration, except that in such event any renewal fee which may be involved shall be prorated in such a manner that no person shall be required to pay a greater or lesser fee than would have been required had the change in renewal dates not occurred.

SEC. 2.5. Section 9832.5 is added to the Business and Professions Code, to read:

9832.5. (a) Registrations issued under this chapter shall expire

no more than 12 months after the issue date. The expiration date of registrations shall be set by the director in a manner to best distribute renewal procedures throughout the year.

(b) To renew an unexpired registration, the service contractor shall, on or before the expiration date of the registration, apply for renewal on a form prescribed by the director, and pay the renewal fee prescribed by this chapter.

(c) To renew an expired registration, the service contractor shall apply for renewal on a form prescribed by the director, pay the renewal fee in effect on the last regular renewal date, and if the registration is renewed more than 30 days after it ceased to be valid, pay all accrued and unpaid delinquency and renewal fees.

(d) A registration which is delinquent more than two years may not be renewed. A service contractor with a delinquent registration is required to reapply for registration. Renewal is effective on the date on which the application is filed and the renewal fee is paid. If there is a delinquency fee, renewal shall be effective upon payment of that fee.

(e) For purposes of implementing the distribution of the renewal of registrations throughout the year, the director may extend, by not more than six months, the date fixed by law for renewal of a registration, except that in the event any renewal fee which may be involved shall be prorated in such a manner that no person shall be required to pay a greater or lesser fee than would have been required had the change in renewal dates not occurred.

(f) This section 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. 3. Section 9847 of the Business and Professions Code is amended to read:

9847. Each service dealer shall maintain all records that are required by the regulations adopted to carry out the provisions of this chapter for a period of at least three years. These records shall be open for reasonable inspection by the director or other law enforcement officials.

SEC. 3.5. Section 9847.5 is added to the Business and Professions Code, to read:

9847.5. Each service contractor shall maintain those records as are required by the regulations adopted to carry out the provisions of this chapter for a period of at least three years. These records shall be open for reasonable inspection by the director or other law enforcement officials.

This section 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. 4. Section 9849 of the Business and Professions Code is amended to read:

9849. The expiration of a valid registration shall not deprive the director of jurisdiction to proceed with any investigation or hearing

on a cease and desist order against a service dealer or service contractor or to render a decision invalidating a registration temporarily or permanently.

This section 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. 4.5. Section 9849 is added to the Business and Professions Code, to read:

9849. The expiration of a valid registration shall not deprive the director of jurisdiction to proceed with any investigation or hearing on a cease and desist order against a service dealer or to render a decision invalidating a registration temporarily or permanently.

This section shall become operative on January 1, 1998.

SEC. 5. Section 9851 of the Business and Professions Code is amended to read:

9851. The superior court in and for the county wherein any person carries on, or attempts to carry on, business as a service dealer or service contractor in violation of the provisions of this chapter, or any regulation thereunder, shall, on application of the director, issue an injunction or other appropriate order restraining such conduct.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the director shall not be required to allege facts necessary to show or tending to show lack of an adequate remedy at law or irreparable injury.

This section 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. 5.5. Section 9851 is added to the Business and Professions Code, to read:

9851. The superior court in and for the county wherein any person carries on, or attempts to carry on, business as a service dealer in violation of the provisions of this chapter, or any regulation thereunder, shall, on application of the director, issue an injunction or other appropriate order restraining such conduct.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the director shall not be required to allege facts necessary to show or tending to show lack of an adequate remedy at law or irreparable injury.

This section shall become operative on January 1, 1998.

SEC. 6. Section 9853 of the Business and Professions Code is amended to read:

9853. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, and duties of a service dealer or service contractor is deemed to be a conviction within the meaning of this article. The director may order the registration temporarily or permanently invalidated, or may decline to issue a registration, 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 the provisions of Section 1203.4 of the Penal Code, allowing that 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.

This section 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. 6.6. Section 9853 is added to the Business and Professions Code, to read:

9853. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a service dealer is deemed to be a conviction within the meaning of this article. The director may order the registration temporarily or permanently invalidated, or may decline to issue a registration, 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 the provisions of Section 1203.4 of the Penal Code allowing that 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.

This section shall become operative on January 1, 1998.

SEC. 7. Article 4.5 (commencing with Section 9855) is added to Chapter 20 of Division 3 of the Business and Professions Code, to read:

Article 4.5. Service Contractors

9855. The definitions used in this section shall govern the construction and terms as used in this chapter:

(a) "Service contract" means a contract in writing to perform, over a fixed period of time or for a specified duration, services relating to the maintenance or repair of a set or appliance as defined by this chapter.

(b) "Service contract administrator" or "administrator" means a person, other than a service contract seller or an insurer admitted to do business in this state, who performs or arranges, or has an affiliate who performs or arranges, the collection, maintenance, or disbursement of moneys to compensate any party for claims or repairs pursuant to a service contract, and who also performs or arranges, or has an affiliate who performs or arranges, any of the following activities on behalf of service contract sellers:

(1) Providing service contract sellers with service contract forms.

(2) Participating in the adjustment of claims arising from service contracts.

(3) Arranging on behalf of service contract sellers the insurance required by Section 9855.2.

A service contract administrator shall not be an obligor on a service contract.

(c) "Service contract seller" or "seller" means a person who sells or offers to sell a service contract to a service contractholder.

(d) "Service contractholder" means a person who purchases or receives a service contract from a service contract seller.

(e) "Service contractor" means a service contract administrator or a service contract seller.

(f) "Service contract reimbursement insurance policy" means a policy of insurance issued by an insurer admitted to do business in this state providing coverage for all obligations and liabilities incurred by a service contract seller under the terms of the service contracts sold in this state by the service contract seller to a service contractholder. The service contract reimbursement insurance policy shall either cover all service contracts sold or specifically cover those contracts sold to residents of the State of California.

9855.1. It shall be unlawful for any person to act as a service contractor in this state unless that person first registers with the bureau in accordance with the provisions of this chapter and maintains a valid registration.

9855.2. (a) A service contract seller shall not issue, sell, or offer for sale a service contract unless he or she complies with one of the following requirements:

(1) Files with the director the most recent annual report on Form 10-K required by the Securities and Exchange Commission, reflecting a net worth greater than the sum of the deferred revenues from service contracts in force. If the service contractor is a foreign corporation that files a comparable audited financial statement with its home government, the director may deem that statement an acceptable substitute for Form 10-K.

(2) Obtains a service contract reimbursement insurance policy.

(3) Sells service contracts which are administered by a service contract administrator who has obtained a service contract reimbursement insurance policy covering the seller's service contracts.

(4) Maintains and annually verifies to the director a funded account held in escrow equal to a minimum of 25 percent of the deferred revenues from the service contracts in force.

(b) A service contract administrator shall not administer service contracts sold in this state, unless a service contract reimbursement insurance policy covering these service contracts has been obtained.

9855.3. (a) The service contract form to be issued by the service contractor shall be filed with the director by the service contractor prior to its use.

(b) Every service contract administrator shall file with its application for registration, and thereafter, with its application for registration renewal, a service contract reimbursement insurance

policy.

(c) Every service contract seller shall file with his or her application for registration, and thereafter with his or her application for registration renewal, one of the following:

(1) The most recent annual report on Form 10-K required by the Securities and Exchange Commission, reflecting a net worth greater than the sum of the deferred revenues from service contracts in force. If the service contractor is a foreign corporation that files a comparable audited financial statement with its home government, the director may deem that statement an acceptable substitute for Form 10-K.

(2) A service contract reimbursement insurance policy.

(3) Evidence that his or her service contracts are administered by a service contract administrator who has obtained a service contract reimbursement insurance policy covering the seller's service contracts.

(4) Evidence of a funded account held in escrow equal to a minimum of 25 percent of the deferred revenues from the service contracts in force.

9855.4. (a) The service contract reimbursement insurance policy shall cover the obligations of the service contract seller under the service contracts sold during the period of time that the service contract reimbursement insurance policy was in force. The service contract reimbursement insurance policy shall either cover all service contracts sold or specifically cover those contracts sold to residents of the State of California.

(b) A service contract reimbursement insurance policy shall contain a provision under which the insurer shall notify the bureau in writing of the termination or nonrenewal of the service contract reimbursement insurance policy.

(c) Upon the effective date of the termination or cancellation of a service contractor's service contract reimbursement insurance policy, the registration of the service contractors whose service contracts are covered thereby shall be automatically suspended, unless the affected service contractors have filed with the director, prior to the date of the termination or cancellation of the service contract reimbursement insurance policy, a new service contract reimbursement insurance policy or otherwise meet one of the requirements of Section 9855.2. Upon receipt of a written request from the service contractor, the director may delay the suspension of a service contractor's registration for no more than 60 days. Following the automatic suspension, an administrative hearing shall be provided upon written request to the director in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

9855.5. A service contractor shall comply with the provisions of Sections 1794.4 and 1794.41 of the Civil Code.

9855.6. Where a service contract holder cancels a service contract in accordance with the provisions of Section 1794.41 of the Civil Code

and the refund due is not paid to the service contract holder or credited to his or her account within 30 days after the service contractor receives written notice of cancellation, the amount of the required refund or credit shall bear interest, payable to the service contractholder, at the rate of 10 percent per annum for each additional 30 days or fraction thereof.

9855.7. The director may refuse to validate, or may temporarily or permanently invalidate the registration of a service contractor for any act, omission, or crime that is committed by the service contractor or any employee, partner, officer, or agent of the service contractor for any of the following reasons:

(a) Any conduct which constitutes fraud or dishonest dealing.

(b) Conviction of a crime which has a substantial relationship to the qualifications, functions and duties of a registrant under this chapter, in which event the record of conviction shall be conclusive evidence thereof.

(c) Assisting in or abetting the violation of, or conspiring to violate, any provision of this article, or of regulations adopted under this article.

9855.8. (a) The director may issue a citation to the service contractor for any of the following reasons:

(1) Violation of subdivision (a) of Section 9855.3 or Section 9855.5, or any regulation adopted thereunder.

(2) Upon a determination by the director that the service contractor has committed a violation by (A) making or authorizing statements or advertisements which are untrue or misleading; or (B) making false promises of a character likely to influence, persuade, or induce a customer to purchase a service contract as provided by this chapter.

(3) For purposes of this section, a violation consists of a single publication or single course of conduct which is determined by the director to be untrue or misleading.

(b) The citation may contain an order of abatement and an order to pay an administrative fine assessed by the director.

(1) Each citation shall be in writing and shall describe with particularity the nature of the violation, including a specific reference to the provision of law determined to have been violated.

(2) Where appropriate, the citation shall contain an order of abatement fixing a reasonable time for abatement of the violation.

(3) A citation or fine assessment issued pursuant to a citation shall inform the service contractor that if he or she desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the bureau within 30 days of the date of issuance of the citation or assessment. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(4) (A) In addition to requesting a hearing as provided for

herein, the service contractor may request a citation review conference with the director or his or her designee regarding the acts charged in the citation. A citation review conference shall be requested by written notice to the bureau within 20 days of the date of the issuance of the citation or assessment.

(B) The director or his or her designee shall hold a citation review conference within 60 days from the receipt of the request. At the conclusion of the citation review conference, the director or his or her designee shall state, in writing, the reasons for his or her action and transmit a copy of his or her findings and decision to the service contractor.

(5) The failure of a service contractor to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the director. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the registration. A registration shall not be renewed without payment of the renewal fee and fine.

(c) Where a citation includes an administrative fine, it shall be issued in accordance with the following procedures:

(1) For the first citation, the director may assess an administrative fine of not less than one hundred dollars ($100) but not more than five hundred dollars ($500).

(2) For the second citation issued during any one year period, the director may assess an administrative fine of not less than five hundred dollars ($500) but not more than one thousand dollars ($1,000).

(3) For the third citation issued during any two-year period, the director may assess an administrative fine of not less than one thousand dollars ($1,000) but not more than two thousand dollars ($2,000).

(4) For the fourth violation of subdivision (a) of Section 9855.3 or of Section 9855.5, or any regulation adopted thereunder, during any two-year period, the director may either assess an administrative fine of not less than one thousand dollars ($1,000) but not more than two thousand dollars ($2,000) or invalidate temporarily or permanently the registration of the service contractor.

9855.9. 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. 8. Section 9860 of the Business and Professions Code is amended to read:

9860. The director shall establish procedures for accepting complaints from the public against any service dealer or service contractor.

This section 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. 8.5. Section 9860 is added to the Business and Professions

Code, to read:

9860. The director shall establish procedures for accepting complaints from the public against any service dealer.

This section shall become operative on January 1, 1998.

SEC. 9. Section 9862 of the Business and Professions Code is amended to read:

9862. If a complaint indicates a possible violation of this chapter or of the regulations made pursuant to this chapter, the director shall advise the service dealer of the contents of the complaint and, after the service dealer has had reasonable opportunity to reply thereto, the director shall make a summary investigation of the facts.

SEC. 9.5. Section 9862.5 is added to the Business and Professions Code, to read:

9862.5. If a complaint indicates a possible violation of this chapter or of the regulations made pursuant to this chapter, the director shall advise the service contractor of the contents of the complaints and, after the service contractor has had reasonable opportunity to reply thereto, the director shall make a summary investigation of the facts.

This section 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. 10. Section 9863 of the Business and Professions Code is amended to read:

9863. If, upon summary investigation, it appears to the director probable that a violation of this chapter, or the regulations thereunder, has occurred, the director, in his or her discretion, may suggest measures that in the director's judgment would compensate the complainant for the damages he or she has suffered as a result of the alleged violation. If the service dealer or service contractor accepts the director's suggestions and performs accordingly, the director shall give that fact due consideration in any subsequent disciplinary proceeding. If the service dealer or service contractor declines to abide by the suggestions of the director, the director may investigate further and may institute disciplinary proceedings in accordance with the provisions of this chapter.

This section 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. 10.5. Section 9863 is added to the Business and Professions Code, to read:

9863. If, upon summary investigation, it appears to the director probable that a violation of this chapter, or the regulations thereunder, has occurred, the director, in his or her discretion, may suggest measures that in the director's judgment would compensate the complainant for the damages he or she has suffered as a result of the alleged violation. If the service dealer accepts the director's suggestions and performs accordingly, the director shall give that fact due consideration in any subsequent disciplinary proceeding. If the service dealer declines to abide by the suggestions of the

director, the director may investigate further and may institute disciplinary proceedings in accordance with the provisions of this chapter.

This section shall become operative on January 1, 1998.

SEC. 11. Section 9873 of the Business and Professions Code is amended to read:

9873. The fees prescribed by this chapter shall be set by the director by regulation, according to the following schedule:

(a) (1) The initial registration fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than one hundred thirty dollars ($130) for each place of business in this state. The initial registration fee for a service contractor is not more than sixty dollars ($60) for each place of business in this state.

(2) The initial registration fee for a person who engages in business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than two hundred sixty dollars ($260) for each place of business in this state. The initial registration fee for a person who is a service contractor and engages in business as either an electronic repair industry service dealer or an appliance repair industry service dealer is not more than one hundred ninety dollars ($190) for each place of business in this state.

(3) The initial registration fee for a person who engages in both the electronic repair industry and the appliance repair industry as a service dealer and is a service contractor is not more than three hundred twenty dollars ($320) for each place of business in this state.

A service dealer or service contractor who does not operate a place of business in this state, but engages in the electronic repair industry, the appliance repair industry, or sells, issues, or administers service contracts in this state shall pay the registration fee specified herein as if he or she had a place of business in this state.

(b) (1) The annual registration renewal fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than one hundred thirty dollars ($130) for each place of business in this state, if renewed prior to its expiration date. The annual registration renewal fee for a service contractor is sixty dollars ($60) for each place of business in this state, if renewed prior to its expiration date.

(2) The annual renewal fee for a service dealer who engages in the business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than two hundred thirty-five dollars ($235) for each place of business in this state.

(3) The annual renewal fee for a service dealer who engages in the electronic repair industry and the appliance repair industry and is a service contractor is not more than two hundred ninety-five dollars ($295) for each place of business in this state.

A service dealer or service contractor who does not operate a place

of business in this state, but who engages in the electronic repair industry, the appliance repair industry, or sells or issues service contracts in this state shall pay the registration fee specified herein as if he or she had a place of business in this state.

(c) The delinquency fee is an amount equal to 50 percent of the renewal fee for such license in effect on the date of renewal of the license, except as otherwise provided in Section 163.5.

This section 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. 11.5. Section 9873 is added to the Business and Professions Code, to read:

9873. The fees prescribed by this chapter shall be set by the director by regulation, according to the following schedule:

(a) The initial registration fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than one hundred thirty dollars ($130) for each place of business in this state. The initial registration fee for a person who engages in business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than two hundred sixty dollars ($260).

(b) The annual registration renewal fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than one hundred thirty dollars ($130) for each place of business in this state, if renewed prior to its expiration date. The annual renewal fee for a service dealer who engages in the business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than two hundred thirty-five dollars ($235).

(c) The delinquency fee is an amount equal to 50 percent of the renewal fee for such license in effect on the date of renewal of the license, except as otherwise provided in Section 163.5.

This section shall become operative on January 1, 1998.

SEC. 12. Section 1791 of the Civil Code is amended to read:

1791. As used in this chapter:

(a) "Consumer goods" means any new product or part thereof that is used, bought, or leased for use primarily for personal, family, or household purposes, except for clothing and consumables. "Consumer goods" shall include new and used assistive devices sold at retail.

(b) "Buyer" or "retail buyer" means any individual who buys consumer goods from a person engaged in the business of manufacturing, distributing, or selling such goods at retail. As used in this subdivision, "person" means any individual, partnership, corporation, association, or other legal entity which engages in any such business.

(c) "Clothing" means any wearing apparel, worn for any purpose, including under and outer garments, shoes, and accessories composed primarily of woven material, natural or synthetic yarn,

fiber, or leather or similar fabric.

(d) "Consumables" means any product which is intended for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which usually is consumed or expended in the course of such consumption or use.

(e) "Distributor" means any individual, partnership, corporation, association, or other legal relationship which stands between the manufacturer and the retail seller in purchases, consignments, or contracts for sale of consumer goods.

(f) "Independent repair or service facility" or "independent service dealer" means any individual, partnership, corporation, association, or other legal entity, not an employee or subsidiary of a manufacturer or distributor, which engages in the business of servicing and repairing consumer goods.

(g) "Lease" means any contract for the lease or bailment for the use of consumer goods by an individual, for a term exceeding four months, primarily for personal, family, or household purposes, whether or not it is agreed that the lessee bears the risk of the consumer goods' depreciation.

(h) "Lessee" means an individual who leases consumer goods under a lease.

(i) "Lessor" means a person who regularly leases consumer goods under a lease.

(j) "Manufacturer" means any individual, partnership, corporation, association, or other legal relationship which manufactures, assembles, or produces consumer goods.

(k) "Place of business" means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the distribution point for such goods.

(*l*) "Retail seller," "seller," or "retailer" means any individual, partnership, corporation, association, or other legal relationship which engages in the business of selling or leasing consumer goods to retail buyers.

(m) "Return to the retail seller" means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the retail seller's place of business, as defined in subdivision (k).

(n) "Sale" means (1) the passing of title from the seller to the buyer for a price, or (2) a consignment for sale.

(o) "Service contract" means a contract in writing to perform, for an additional cost, over a fixed period of time or for a specified duration, services relating to the maintenance or repair of a consumer product, except that this term does not include a policy of automobile insurance, as defined in Section 116 of the Insurance Code.

(p) "Service contract administrator" or "administrator" means a person, other than a service contract seller or an insurer admitted to do business in this state, who performs or arranges, or has an affiliate who performs or arranges, the collection, maintenance, or

disbursement of moneys to compensate any party for claims or repairs pursuant to a service contract, and who also performs or arranges, or has an affiliate who performs or arranges, any of the following activities on behalf of service contract sellers:

(1) Providing service contract sellers with service contract forms.

(2) Participating in the adjustment of claims arising from service contracts.

(3) Arranging on behalf of service contract sellers the insurance required by Section 9855.2. A service contract administrator shall not be an obligor on a service contract.

(q) "Service contract seller" or "seller" means a person who sells or offers to sell a service contract to a service contractholder.

(r) "Service contractor" means a service contract administrator or a service contract seller.

(s) "Assistive device" means any instrument, apparatus, or contrivance, including any component or part thereof or accessory thereto, which is used or intended to be used, to assist a physically disabled person in the mitigation or treatment of an injury or disease or to assist or affect or replace the structure or any function of the body of a physically disabled person, except that this term does not include prescriptive lenses and other ophthalmic goods unless they are sold or dispensed to a blind person, as defined in Section 19153 of the Welfare and Institutions Code, and unless they are intended to assist the limited vision of the person so disabled.

(t) "Catalog or similar sale" means a sale in which neither the seller nor any employee or agent of the seller nor any person related to the seller nor any person with a financial interest in the sale participates in the diagnosis of the buyer's condition or in the selection or fitting of the device.

(u) "Home appliance" means any refrigerator, freezer, range, microwave oven, washer, dryer, dishwasher, garbage disposal, trash compactor, or room air-conditioner normally used or sold for personal, family, or household purposes.

(v) "Home electronic product" means any television, radio, antenna rotator, audio or video recorder or playback equipment, video camera, video game, video monitor, computer equipment, telephone, telecommunications equipment, electronic alarm system, electronic appliance control system, or other kind of electronic product, if it is normally used or sold for personal, family, or household purposes. The term includes any electronic accessory that is normally used or sold with a home electronic product for one of those purposes. The term excludes any single product with a wholesale price to the retail seller of less than fifty dollars ($50).

This section 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. 12.5. Section 1791 is added to the Civil Code, to read:

1791. As used in this chapter:

(a) "Consumer goods" means any new product or part thereof

that is used, bought, or leased for use primarily for personal, family, or household purposes, except for clothing and consumables. "Consumer goods" shall include new and used assistive devices sold at retail.

(b) "Buyer" or "retail buyer" means any individual who buys consumer goods from a person engaged in the business of manufacturing, distributing, or selling such goods at retail. As used in this subdivision, "person" means any individual, partnership, corporation, association, or other legal entity which engages in any such business.

(c) "Clothing" means any wearing apparel, worn for any purpose, including under and outer garments, shoes, and accessories composed primarily of woven material, natural or synthetic yarn, fiber, or leather or similar fabric.

(d) "Consumables" means any product which is intended for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which usually is consumed or expended in the course of such consumption or use.

(e) "Distributor" means any individual, partnership, corporation, association, or other legal relationship which stands between the manufacturer and the retail seller in purchases, consignments, or contracts for sale of consumer goods.

(f) "Independent repair or service facility" or "independent service dealer" means any individual, partnership, corporation, association, or other legal entity, not an employee or subsidiary of a manufacturer or distributor, which engages in the business of servicing and repairing consumer goods.

(g) "Lease" means any contract for the lease or bailment for the use of consumer goods by an individual, for a term exceeding four months, primarily for personal, family, or household purposes, whether or not it is agreed that the lessee bears the risk of the consumer goods' depreciation.

(h) "Lessee" means an individual who leases consumer goods under a lease.

(i) "Lessor" means a person who regularly leases consumer goods under a lease.

(j) "Manufacturer" means any individual, partnership, corporation, association, or other legal relationship which manufactures, assembles, or produces consumer goods.

(k) "Place of business" means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the distribution point for such goods.

(*l*) "Retail seller," "seller," or "retailer" means any individual, partnership, corporation, association, or other legal relationship which engages in the business of selling or leasing consumer goods to retail buyers.

(m) "Return to the retail seller" means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the

retail seller's place of business, as defined in subdivision (k).

(n) "Sale" means (1) the passing of title from the seller to the buyer for a price, or (2) a consignment for sale.

(o) "Service contract" means a contract in writing to perform, over a fixed period of time or for a specified duration, services relating to the maintenance or repair of a consumer product, except that this term does not include a policy of automobile insurance, as defined in Section 116 of the Insurance Code.

(p) "Assistive device" means any instrument, apparatus, or contrivance, including any component or part thereof or accessory thereto, which is used or intended to be used, to assist a physically disabled person in the mitigation or treatment of an injury or disease or to assist or affect or replace the structure or any function of the body of a physically disabled person, except that this term does not include prescriptive lenses and other ophthalmic goods unless they are sold or dispensed to a blind person, as defined in Section 19153 of the Welfare and Institutions Code and unless they are intended to assist the limited vision of the person so disabled.

(q) "Catalog or similar sale" means a sale in which neither the seller nor any employee or agent of the seller nor any person related to the seller nor any person with a financial interest in the sale participates in the diagnosis of the buyer's condition or in the selection or fitting of the device.

(r) "Home appliance" means any refrigerator, freezer, range, microwave oven, washer, dryer, dishwasher, garbage disposal, trash compactor, or room air-conditioner normally used or sold for personal, family, or household purposes.

(s) "Home electronic product" means any television, radio, antenna rotator, audio or video recorder or playback equipment, video camera, video game, video monitor, computer equipment, telephone, telecommunications equipment, electronic alarm system, electronic appliance control system, or other kind of electronic product, if it is normally used or sold for personal, family, or household purposes. The term includes any electronic accessory that is normally used or sold with a home electronic product for one of those purposes. The term excludes any single product with a wholesale price to the retail seller of less than fifty dollars ($50).

This section shall become operative on January 1, 1998.

SEC. 13. Section 1794.4 of the Civil Code is amended to read:

1794.4. (a) Nothing in this chapter shall be construed to prevent the sale of a service contract to the buyer in addition to, or in lieu of, an express warranty if that contract fully and conspicuously discloses in simple and readily understood language the terms, conditions, and exclusions of that contract, provided that nothing in this section shall apply to a home protection contract issued by a home protection company that is subject to Part 7 (commencing with Section 12740) of Division 2 of the Insurance Code.

(b) Except as otherwise expressly provided in the service contract, every service contract shall obligate the service contract

seller to provide to the buyer of the product all of the services and functional parts that may be necessary to maintain proper operation of the entire product under normal operation and service for the duration of the service contract and without additional charge.

(c) The service contract shall contain all of the following items of information:

(1) A clear description and identification of the covered product.

(2) The point in time or event when the term of the service contract commences, and its duration measured by elapsed time or an objective measure of use.

(3) If the enforceability of the service contract is limited to the original buyer or is limited to persons other than every consumer owner of the covered product during the term of the service contract, a description of the limits on transfer or assignment of the service contract.

(4) A statement of the general obligation of the service contract seller in the same language set forth in subdivision (b), with equally clear and conspicuous statements of (A) any services, parts, characteristics, components, properties, defects, malfunctions, causes, conditions, repairs or remedies that are excluded from the scope of the service contract; (B) any other limits on the application of the language in subdivision (b) such as a limit on the total number of service calls; (C) any additional services which the service contract seller will provide; (D) whether the obligation of the service contract seller includes preventive maintenance and, if so, the nature and frequency of the preventive maintenance that the service contractor will provide; and (E) whether the buyer has an obligation to provide preventive maintenance or perform any other obligations and, if so, the nature and frequency of the preventive maintenance and of any other obligations, and the consequences of any noncompliance.

(5) A step-by-step explanation of the procedure which the buyer should follow in order to obtain performance of any obligation under the service contract, including (A) the full legal and business name of the service contract seller; (B) the mailing address of the service contract seller; (C) the persons or class of persons that are authorized to perform service; (D) the name or title and address of any administrator, agent, employee, or department of the service contract seller that is responsible for the performance of any obligations; (E) the method of giving notice to the service contract seller of the need for service; (F) whether in-home service is provided or, if not, whether the costs of transporting the product, for service or repairs will be paid by the service contract seller; (G) if the product must be transported to the service contract seller, either the place where the product may be delivered for service or repairs or a toll-free telephone number which the buyer may call to obtain that information; (H) all other steps which the buyer must take to obtain service; and (I) all fees, charges, and other costs that the buyer must pay to obtain service.

(6) An explanation of the steps that the service contract seller will take to carry out its obligations under the service contract.

(7) A description of any right to cancel the contract if the buyer returns the product or the product is sold, lost, stolen, or destroyed, or, if there is no right to cancel or the right to cancel is limited, a statement of the fact.

(8) Information respecting the availability of any informal dispute settlement process.

(9) A statement identifying the person who is financially and legally obligated to perform the services specified in the service contract, including the name and address of that person.

Nothing in this subdivision shall preclude a service contract seller from designating an administrator that a service contractholder may initially contact for performance of the obligations under the service contract.

(d) Subdivisions (b) and (c) of this section are applicable to service contracts on new or used home appliances and home electronic products entered into on or after July 1, 1989. They are applicable to service contracts on all other new or used products entered into on and after July 1, 1991.

(e) This section 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. 13.5. Section 1794.4 is added to the Civil Code, to read:

1794.4. (a) Nothing in this chapter shall be construed to prevent the sale of a service contract to the buyer in addition to or in lieu of an express warranty if that contract fully and conspicuously discloses in simple and readily understood language the terms, conditions, and exclusions of that contract, provided that nothing in this section shall apply to a home protection contract issued by a home protection company that is subject to Part 7 (commencing with Section 12740) of Division 2 of the Insurance Code.

(b) Except as otherwise expressly provided in the service contract, every service contract shall obligate the service contractor to provide to the buyer of the product all of the services and functional parts that may be necessary to maintain proper operation of the entire product under normal operation and service for the duration of the service contract and without additional charge.

(c) The service contract shall contain all of the following items of information:

(1) A clear description and identification of the covered product.

(2) The point in time or event when the term of the service contract commences, and its duration measured by elapsed time or an objective measure of use.

(3) If the enforceability of the service contract is limited to the original buyer or is limited to persons other than every consumer owner of the covered product during the term of the service contract, a description of the limits on transfer or assignment of the service contract.

(4) A statement of the general obligation of the service contractor in the same language set forth in subdivision (b), with equally clear and conspicuous statements of (A) any services, parts, characteristics, components, properties, defects, malfunctions, causes, conditions, repairs or remedies that are excluded from the scope of the service contract; (B) any other limits on the application of the language in subdivision (b) such as a limit on the total number of service calls; (C) any additional services which the service contractor will provide; (D) whether the obligation of the service contractor includes preventive maintenance and, if so, the nature and frequency of the preventive maintenance that the service contractor will provide; and (E) whether the buyer has an obligation to provide preventive maintenance or perform any other obligations and, if so, the nature and frequency of the preventive maintenance and of any other obligations, and the consequences of any noncompliance.

(5) A step-by-step explanation of the procedure which the buyer should follow in order to obtain performance of any obligation under the service contract including (A) the full legal and business name of the service contractor; (B) the mailing address of the service contractor; (C) the persons or class of persons that are authorized to perform service; (D) the name or title and address of any agent, employee or department of the service contractor that is responsible for the performance of any obligations; (E) the method of giving notice to the service contractor of the need for service; (F) whether in-home service is provided or, if not, whether the costs of transporting the product, for service or repairs will be paid by the service contractor; (G) if the product must be transported to the service contractor, either the place where the product may be delivered for service or repairs or a toll-free telephone number which the buyer may call to obtain that information; (H) all other steps which the buyer must take to obtain service; and (I) all fees, charges, and other costs that the buyer must pay to obtain service.

(6) An explanation of the steps that the service contractor will take to carry out its obligations under the service contract.

(7) A description of any right to cancel the contract if the buyer returns the product or the product is sold, lost, stolen, or destroyed, or, if there is no right to cancel or the right to cancel is limited, a statement of the fact.

(8) Information respecting the availability of any informal dispute settlement process.

(d) Subdivisions (b) and (c) of this section are applicable to service contracts on new or used home appliances and home electronic products entered into on or after July 1, 1989. They are applicable to service contracts on all other new or used products entered into on and after July 1, 1991.

(e) This section shall become operative on January 1, 1998.

SEC. 14. Section 6254 of the Government Code, as amended by Section 2 of Chapter 1128 of the Statutes of 1992, is amended to read:

6254. Except as provided in Section 6254.7, nothing in this chapter shall be construed to require disclosure of records that are any of the following:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda which are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding those records clearly outweighs the public interest in disclosure.

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810), until the pending litigation or claim has been finally adjudicated or otherwise settled.

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(d) Contained in or related to:

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies.

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(4) Information received in confidence by any state agency referred to in paragraph (1).

(e) Geological and geophysical data, plant production data, and similar information relating to utility systems development, or market or crop reports, which are obtained in confidence from any person.

(f) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes, except that state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion,

larceny, robbery, vandalism, vehicle theft, or a crime as defined by subdivision (c) of Section 13960, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, nothing in this division shall require the disclosure of that portion of those investigative files which reflect the analysis or conclusions of the investigating officer.

Other provisions of this subdivision notwithstanding, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:

(1) The full name, current address, and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

(2) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date, and location of occurrence, the time and date of the report, the name, age, and current address of the victim, except that the address of the victim of any crime defined by Section 261, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, or 422.75 of the Penal Code shall not be disclosed, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved. The name of a victim of any crime defined by Section 261, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, or 422.75 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined by Section 261, 264, 264.1, 273a, 273d, 286, 288, 288a, 289, 422.6, 422.7, or 422.75 of the Penal Code may be deleted at the request of the victim, or the victim's parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment,

or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of the Education Code.

(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.

(i) Information required from any taxpayer in connection with the collection of local taxes which is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.

(j) Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or exhibition purposes. The exemption in this subdivision shall not apply to records of fines imposed on the borrowers.

(k) Records the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

(*l*) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's legal affairs secretary, provided that public records shall not be transferred to the custody of the Governor's legal affairs secretary to evade the disclosure provisions of this chapter.

(m) In the custody of or maintained by the Legislative Counsel.

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with the licensing agency to establish his or her personal qualification for the license, certificate, or permit applied for.

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, where an authorized officer of the California Pollution Control Financing Authority determines that disclosure of the financial data would be competitively injurious to the applicant and the data is required in order to obtain guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application which are subject to disclosure under this chapter.

(p) Records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1, Chapter 10.5 (commencing with Section 3525) of Division 4 of Title 1, and Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, which reveal a state agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or which provide instruction, advice, or training to employees who do not

have full collective bargaining and representation rights under the above chapters. Nothing in this subdivision shall be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this subdivision.

(q) Records of state agencies related to activities governed by Articles 2.6 (commencing with Section 14081), 2.8 (commencing with Section 14087.5), and 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, which reveal the special negotiator's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or which provide instruction, advice, or training to employees.

Except for the portion of a contract containing the rates of payment, contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. In the event that a contract for inpatient services which is entered into prior to April 1, 1984, is amended on or after April 1, 1984, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after it is fully executed. If the California Medical Assistance Commission enters into contracts with health care providers for other than inpatient hospital services, those contracts shall be open to inspection one year after they are fully executed.

Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

Notwithstanding any other provision of law, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee. The Joint Legislative Audit Committee shall maintain the confidentiality of the contracts and amendments until such time as a contract or amendment is fully open to inspection by the public.

(r) Records of Native American graves, cemeteries, and sacred places maintained by the Native American Heritage Commission.

(s) A final accreditation report of the Joint Commission on Accreditation of Hospitals which has been transmitted to the State Department of Health Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code.

(t) Records of a local hospital district, formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, or the records of a municipal hospital, formed pursuant to Article 7 (commencing with Section 37600) or Article 8 (commencing with Section 37650) of Chapter 5 of Division 3 of Title 4 of this code, which relate to any contract with an insurer or nonprofit hospital service plan for inpatient or outpatient services for alternative rates pursuant to Section 10133 or 11512 of the Insurance Code. However, the record shall be open to inspection within one year after the

contract is fully executed.

(u) Information contained in applications for licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department which indicates when or where the applicant is vulnerable to attack or which concerns the applicant's medical or psychological history or that of members of his or her family.

(v) (1) Records of the Major Risk Medical Insurance Program related to activities governed by Part 6.3 (commencing with Section 12695), and Part 6.5 (commencing with Section 12700), of Division 2 of the Insurance Code, and which reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Part 6.3 (commencing with Section 12695), or Part 6.5 (commencing with Section 12700), of Division 2 of the Insurance Code, on or after July 1, 1991, shall be open to inspection one year after they have been fully executed.

(B) In the event that a contract for health coverage that is entered into prior to July 1, 1991, is amended on or after July 1, 1991, the amendment, except for any portion containing the rates of payment shall be open to inspection one year after the amendment has been fully executed.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The Joint Legislative Audit Committee shall maintain the confidentiality of the contracts and amendments thereto, until the contract or amendments to a contract is open to inspection pursuant to paragraph (3).

(w) (1) Records of the Major Risk Medical Insurance Program related to activities governed by Chapter 14 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Chapter 14 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, on or after January 1, 1993, shall be open to

inspection one year after they have been fully executed.

(3) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The Joint Legislative Audit Committee shall maintain the confidentiality of the contracts and amendments thereto, until the contract or amendments to a contract is open to inspection pursuant to paragraph (2).

(x) Financial data contained in applications for registration, or registration renewal, as a service contractor filed with the Director of the Department of Consumer Affairs pursuant to Chapter 20 (commencing with Section 9800) of Division 3 of the Business and Professions Code, for the purpose of establishing the service contractor's net worth, or, financial data regarding the funded accounts held in escrow for service contracts held in force in this state by a service contractor.

Nothing in this section prevents any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

Nothing in this section prevents any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act.

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 1266

An act to amend Sections 7528, 7532, 7546.9, 7547.5, 7596.5, and 7598.14 of, and to amend, repeal, and add Sections 7511, 7570, and 7599.70 of, the Business and Professions Code, relating to investigative services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 7511 of the Business and Professions Code is amended to read:

7511. Upon the effective date of the amendments to this section

made at the 1993 portion of the 1993–94 Regular Session, the bureau shall establish and assess fees and penalties for licensure and registration as follows:

(a) The application fee for an original repossession agency license is eight hundred fifty dollars ($850).

(b) The application fee for an original qualification certificate is three hundred fifty dollars ($350).

(c) The renewal fee for a repossession agency license is four hundred seventy-five dollars ($475) annually.

(d) The renewal fee for a license as a qualified certificate holder is two hundred twenty-five dollars ($225) annually.

(e) Notwithstanding Section 163.5, the reinstatement fee for a repossession agency license required pursuant to Sections 7503.11 and 7505.3 is the amount equal to the renewal fee plus a penalty of 50 percent.

(f) Notwithstanding Section 163.5, the reinstatement fee for a license as a qualified certificate holder required pursuant to Sections 7504.7 and 7503.11 is the amount equal to the renewal fee plus a penalty of 50 percent.

(g) The fee for reexamination of an applicant or the applicant's qualified certificate holder is fifty dollars ($50).

(h) An initial repossessor employee registration fee is seventy-five dollars ($75), a repossessor employee reregistration fee is thirty dollars ($30), and a repossessor employee annual renewal fee is thirty dollars ($30) per registration. Notwithstanding Section 163.5 and this subdivision, the reregistration fee for a repossessor employee whose registration expired more than one year prior to the filing of the application for reregistration shall be seventy-five dollars ($75).

(i) The delinquency fee is 50 percent of the renewal fee in effect on the date of expiration, but not less than twenty-five dollars ($25).

(j) The fingerprint processing fee is that amount charged the bureau by the Department of Justice.

(k) The director shall furnish one copy of any issue or edition of the licensing law and rules and regulations to any applicant or licensee without charge. The director shall charge and collect a fee of ten dollars ($10) plus sales tax for each additional copy which may be furnished on request to any applicant or licensee, and for each copy furnished on request to any other person.

All fees, except any sales tax, received pursuant to this chapter shall be deposited in the Private Investigator Fund.

(*l*) 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 7511 is added to the Business and Professions Code, to read:

7511. Effective January 1, 1995, the bureau shall establish and assess fees and penalties for licensure and registration as displayed in this section. The fees prescribed by this chapter are as follows:

(a) The application fee for an original repossession agency license

is eight hundred twenty-five dollars ($825).

(b) The application fee for an original qualification certificate is three hundred twenty-five dollars ($325).

(c) The renewal fee for a repossession agency license is four hundred seventy-five dollars ($475) annually.

(d) The renewal fee for a license as a qualified certificate holder is two hundred twenty-five dollars ($225) annually.

(e) Notwithstanding Section 163.5, the reinstatement fee for a repossession agency license required pursuant to Sections 7503.11 and 7505.3 is the amount equal to the renewal fee plus a penalty of 50 percent thereof.

(f) Notwithstanding Section 163.5, the reinstatement fee for a license as a qualified certificate holder required pursuant to Sections 7504.7 and 7503.11 is the amount equal to the renewal fee plus a penalty of 50 percent thereof.

(g) A fee for reexamination of an applicant for a qualified manager is thirty dollars ($30).

(h) An initial repossessor employee registration fee is seventy-five dollars ($75), a repossessor employee reregistration fee is thirty dollars ($30), and a repossessor employee annual renewal fee is thirty dollars ($30) per registration. Notwithstanding Section 163.5 and this subdivision, the reregistration fee for a repossessor employee whose registration expired more than one year prior to the filing of the application for reregistration shall be seventy-five dollars ($75).

(i) The delinquency fee is 50 percent of the renewal fee in effect on the date of expiration, but not less than twenty-five dollars ($25).

(j) The fingerprint processing fee is that amount charged the bureau by the Department of Justice.

(k) The director shall furnish one copy of any issue or edition of the licensing law and rules and regulations to any applicant or licensee without charge. The director shall charge and collect a fee of ten dollars ($10) plus sales tax for each additional copy which may be furnished on request to any applicant or licensee, and for each copy furnished on request to any other person.

All fees, except any sales tax, received pursuant to this chapter shall be deposited in the Private Investigator Fund.

This section shall become operative January 1, 1995 and 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. 2.3. Section 7511 is added to the Business and Professions Code, to read:

7511. The fees prescribed by this chapter are as follows:

(a) The application fee for an original repossession agency license is seven hundred fifty dollars ($750).

(b) The application fee for an original qualification certificate is two hundred fifty dollars ($250).

(c) The renewal fee for a repossession agency license is four hundred fifty dollars ($450) annually.

(d) The renewal fee for a license as a qualified certificate holder is two hundred dollars ($200) annually.

(e) Notwithstanding Section 163.5, the reinstatement fee for a repossession agency license required pursuant to Sections 7503.11 and 7505.3 is the amount equal to the renewal fee plus a penalty of 50 percent.

(f) Notwithstanding Section 163.5, the reinstatement fee for a license as a qualified certificate holder required pursuant to Sections 7504.7 and 7503.11 is the amount equal to the renewal fee plus a penalty of 50 percent.

(g) The fee for reexamination of an applicant or the applicant's qualified certificate holder is ten dollars ($10).

(h) An initial repossessor employee registration fee is fifty-five dollars ($55), a repossessor employee reregistration fee is thirty dollars ($30), and a repossessor employee annual renewal fee is thirty dollars ($30) per registration. Notwithstanding Section 163.5 and this subdivision, the reregistration fee for a repossessor employee whose registration expired more than one year prior to the filing of the application for reregistration shall be fifty-five dollars ($55).

(i) The fingerprint processing fee is that amount charged the bureau by the Department of Justice.

(j) The director shall furnish one copy of any issue or edition of the licensing law and rules and regulations to any applicant or licensee without charge. The director shall charge and collect a fee of three dollars ($3) plus sales tax for each additional copy which may be furnished on request to any applicant or licensee, and for each copy furnished on request to any other person.

All fees, except any sales tax, received pursuant to this chapter shall be deposited in the Private Investigator Fund.

This section shall become operative January 1, 1998.

SEC. 2.5. Section 7528 of the Business and Professions Code is amended to read:

7528. The chief shall issue a license, the form and content of which shall be determined by the chief in accordance with Section 164. In addition, the chief shall issue a "Certificate of Licensure" to any licensee, upon request and upon the payment of a fee of fifty dollars ($50).

SEC. 3. Section 7532 of the Business and Professions Code is amended to read:

7532. No licensee shall conduct a business under a fictitious or other business name unless and until he or she has obtained the written authorization of the bureau to do so.

The bureau shall not authorize the use of a fictitious or other business name which is so similar to that of a public officer or agency or of that used by another licensee that the public may be confused or misled thereby.

The authorization shall require, as a condition precedent to the use of any fictitious name, that the licensee comply with Chapter 5 (commencing with Section 17900) of Part 3 of Division 7.

A licensee desiring to conduct his or her business under more than one fictitious business name shall obtain the authorization of the bureau in the manner prescribed in this section for the use of each such name.

The licensee shall pay a fee of twenty-five dollars ($25) for each authorization to use an additional fictitious business name and for each change in the use of a fictitious business name. If the original license is issued in a nonfictitious name and authorization is requested to have the license reissued in a fictitious business name the licensee shall pay a fee of twenty-five dollars ($25) for such authorization.

SEC. 4. Section 7546.9 of the Business and Professions Code is amended to read:

7546.9. Upon approval of an application for registration, the chief shall cause to be issued to the applicant at his or her last known residential address a registration card in a form approved by the director. In the event of the loss or destruction of the card, the cardholder may apply to the bureau for a certified replacement of the card, stating the circumstances surrounding the loss, and pay a ten dollar ($10) certification fee, whereupon the bureau shall issue a certified replacement of the card.

SEC. 5. Section 7547.5 of the Business and Professions Code is amended to read:

7547.5. The firearms qualification card, if issued, shall be mailed to the applicant at the address which appears on the application. In the event of the loss or destruction of the card, the cardholder may apply to the bureau for a certified replacement of the card, stating the circumstances surrounding the loss, and pay a ten dollar ($10) certification fee, whereupon the bureau shall issue a certified replacement of the card.

SEC. 6. Section 7570 of the Business and Professions Code is amended to read:

7570. Upon the effective date of the amendments to this section made at the 1993 portion of the 1993–94 Regular Session, the bureau shall establish and assess fees and penalties for licensure and registration as follows:

(a) The application and examination fee for an original license for a private patrol operator is two hundred fifty dollars ($250) and for a private investigator is one hundred dollars ($100), and for a protection dog operator is fifty dollars ($50).

(b) The application fee for an original branch office certificate for a private investigator is fifty dollars ($50), for a protection dog operator is thirty dollars ($30), and for a private patrol operator is one hundred dollars ($100).

(c) The fee for an original license for a private investigator is two hundred fifty dollars ($250), for a protection dog operator is five hundred dollars ($500), and for a private patrol operator is five hundred dollars ($500).

(d) The renewal fee is as follows:

(1) For a license as a private investigator, one hundred twenty-five dollars ($125).

(2) For a license as a private patrol operator, five hundred eighty-five dollars ($585).

(3) For a combination license as a private investigator and private patrol operator, AC or DC prefix, eight hundred dollars ($800).

(4) For a license as a protection dog operator, five hundred dollars ($500).

(5) For a branch office certificate for a private investigator thirty dollars ($30), for a protection dog operator, thirty dollars ($30), for a combination private investigator and private patrol operator, forty dollars ($40), and for a private patrol operator, one hundred dollars ($100).

(e) The delinquency fee is 50 percent of the renewal fee in effect on the date of expiration.

(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 for a protection dog operator and private patrol operator is twenty dollars ($20) and for a private investigator is fifteen dollars ($15).

(h) Registration fees pursuant to this chapter are as follows:

(1) A registration fee for a protection dog operator employee is twenty-four dollars ($24) and for a security guard is twenty-five dollars ($25).

(2) A protection dog operator employee registration renewal fee of twenty dollars ($20).

(3) A security guard registration renewal fee of twenty-five dollars ($25).

(i) Fees to carry out other provisions of this chapter are as follows:

(1) A firearms qualification fee of sixty dollars ($60).

(2) A firearms requalification fee of forty dollars ($40).

(3) An initial baton certification fee of fifty dollars ($50).

(4) An application fee of five hundred dollars ($500) and renewal fee of five hundred dollars ($500) for certification as a firearms training facility or a baton training facility.

(5) An application fee of two hundred fifty dollars ($250) and renewal fee of two hundred fifty dollars ($250) for certification as a firearms training instructor or a baton training instructor.

(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. 7. Section 7570 is added to the Business and Professions Code, to read:

7570. Effective January 1, 1995, the bureau shall establish and assess fees and penalties for licensure and registration as follows:

(a) The application and examination fee for an original license for a private patrol operator is two hundred dollars ($200), for a private investigator is fifty dollars ($50), and for a protection dog operator

is fifty dollars ($50).

(b) The application fee for an original branch office certificate for a private investigator is thirty dollars ($30), for a protection dog operator is thirty dollars ($30), and for a private patrol operator is seventy-five dollars ($75).

(c) The fee for an original license for a private investigator is one hundred seventy-five dollars ($175), for protection dog operator is five hundred dollars ($500), and for private patrol operator is five hundred dollars ($500).

(d) The renewal fee is as follows:

(1) For a license as a private investigator, one hundred twenty-five dollars ($125).

(2) For a license as a private patrol operator, five hundred dollars ($500).

(3) For a combination license as a private investigator and private patrol operator, AC or DC prefix, six hundred dollars ($600).

(4) For a license as a protection dog operator, five hundred dollars ($500).

(5) For a branch office certificate for a private investigator, thirty dollars ($30), for a protection dog operator, thirty dollars ($30), for a combination private investigator and private patrol operator, AC and DC prefix, forty dollars ($40), and for a private patrol operator, seventy-five dollars ($75).

(e) The delinquency fee is 50 percent of the renewal fee in effect on the date of expiration.

(f) A reinstatement fee is equal to the amount of the renewal fee plus the regular delinquency fee.

(g) A fee for reexamination of an applicant for a qualified manager for a protection dog operator and private patrol operator is twenty dollars ($20) and for a private investigator is fifteen dollars ($15).

(h) Registration fees pursuant to this chapter are as follows:

(1) A registration fee for a protection dog operator employee is twenty-four dollars ($24) and for a security guard is twenty-five dollars ($25).

(2) A protection dog operator employee registration renewal fee of twenty dollars ($20).

(3) A security guard registration renewal fee of twenty-five dollars ($25).

(i) Fees to carry out other provisions of this chapter are as follows:

(1) A firearms qualification fee of sixty dollars ($60).

(2) A firearms requalification fee of forty dollars ($40).

(3) An initial baton certification fee of fifty dollars ($50).

(4) An application and renewal fee of five hundred dollars ($500) for certification as a firearms training facility or a baton training facility.

(5) An application and renewal fee of two hundred fifty dollars ($250) for certification as a firearms training instructor or a baton training instructor.

(j) This section shall become operative January 1, 1995 and 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. 7.5. Section 7570 is added to the Business and Professions Code, 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).

(j) This section shall become operative January 1, 1998.

SEC. 8. Section 7596.5 of the Business and Professions Code is amended to read:

7596.5. The firearms qualification card shall be mailed to the applicant at the address which appears on the application. In the event of the loss or destruction of the card, the cardholder may apply to the bureau for a certified replacement of the card, stating the circumstances surrounding the loss, and pay a ten dollar ($10) certification fee, whereupon, the bureau shall issue a certified replacement of the card.

SEC. 9. Section 7598.14 of the Business and Professions Code is amended to read:

7598.14. Upon approval of an application for registration, the chief shall cause to be issued to the applicant, at his or her last-known address, a registration card in a form approved by the director. A photo identification card shall be furnished upon written request of the applicant, submission of two recent photographs of the applicant, and payment of the fee prescribed by this chapter. In the event of the loss or destruction of the card, the cardholder may apply to the bureau for a certified replacement of the card, stating the circumstances surrounding the loss, and pay a ten dollar ($10) certification fee, whereupon the bureau shall issue a certified replacement of the card.

SEC. 10. Section 7599.70 of the Business and Professions Code is amended to read:

7599.70. Upon the effective date of the amendments to this section made at the 1993 portion of the 1993–94 Regular Session, the bureau shall establish and assess fees and penalties for licensure and registration as follows:

(a) A company license application fee of thirty-five dollars ($35).

(b) An original license fee for an alarm company operator license of three hundred dollars ($300) and a renewal fee for an alarm company operator license of three hundred thirty-five dollars ($335).

(c) A qualified manager application and examination fee of one hundred five dollars ($105).

(d) A renewal fee for a qualified manager of one hundred twenty dollars ($120).

(e) An original license fee and renewal fee for a branch office certificate of thirty-five dollars ($35).

(f) Notwithstanding Section 163.5, the reinstatement fee as required by Sections 7593.12 and 7598.17 is the amount equal to the renewal fee plus a penalty of 50 percent thereof.

(g) A fee for reexamination of an applicant for a qualified

manager of fourteen dollars ($14).

(h) An initial registration fee for an alarm agent of seventeen dollars ($17).

(i) A registration renewal fee for an alarm agent of seven dollars ($7).

(j) A firearms qualification fee of sixty dollars ($60) and a firearms requalification fee of forty dollars ($40).

(k) The fingerprint processing fee is that amount charged the bureau by the Department of Justice.

(*l*) The processing fee required pursuant to Sections 7593.7 and 7598.14 is the amount equal to the expenses incurred to provide a photo identification card.

(m) The fee for a "Certificate of Licensure" of fifty dollars ($50).

(n) The delinquency fee is 50 percent of the renewal fee in effect on the date of expiration, but not less than twenty-five dollars ($25).

(o) 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 7599.70 is added to the Business and Professions Code, to read:

7599.70. Effective January 1, 1995, the bureau shall establish and assess fees and penalties for licensure and registration as follows:

(a) A company license application fee of thirty-five dollars ($35).

(b) An original license fee for an alarm company operator license of two hundred eighty dollars ($280). A renewal fee for an alarm company operator license of three hundred thirty-five dollars ($335).

(c) A qualified manager application and examination fee of one hundred five dollars ($105).

(d) A renewal fee for a qualified manager of one hundred twenty dollars ($120).

(e) An original license fee and renewal fee for a branch office certificate of thirty-five dollars ($35).

(f) Notwithstanding Section 163.51, the reinstatement fee as required by Sections 7593.12 and 7598.17 is the amount equal to the renewal fee plus a penalty of 50 percent thereof.

(g) A fee for reexamination of an applicant for a qualified manager of fourteen dollars ($14).

(h) An initial registration fee for an alarm agent of seventeen dollars ($17).

(i) A registration renewal fee for an alarm agent of seven dollars ($7).

(j) A firearms qualification fee of sixty dollars ($60) and a firearms requalification fee of forty dollars ($40).

(k) The fingerprint processing fee is that amount charged the bureau by the Department of Justice.

(*l*) The processing fee required pursuant to Sections 7593.7 and 7598.14 is the amount equal to the expenses incurred to provide a photo identification card.

(m) The fee for a "Certificate of Licensure" of fifty dollars ($50).

(n) The delinquency fee is 50 percent of the renewal fee in effect on the date of expiration, but not less than twenty-five dollars ($25).

(o) This section shall become operative on January 1, 1995 and 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. 11.5. Section 7599.70 is added to the Business and Professions Code, to read:

7599.70. The fees prescribed by this chapter are those fixed in the following schedule:

(a) A company license application fee of twenty-five dollars ($25).

(b) An original license and renewal fee for an alarm company operator license of two hundred dollars ($200).

(c) A qualified manager application and examination fee of seventy-five dollars ($75).

(d) A renewal fee for a qualified manager of seventy-five dollars ($75).

(e) An original license fee and renewal fee for a branch office certificate of twenty-five dollars ($25).

(f) Notwithstanding Section 163.5, the reinstatement fee as required by Section 7593.12 is the amount equal to the renewal fee plus a penalty of 50 percent thereof.

(g) A fee for reexamination of an applicant for a qualified manager of ten dollars ($10).

(h) An initial registration fee for an alarm agent of twelve dollars ($12).

(i) A registration renewal fee for an alarm agent of seven dollars ($7).

(j) A firearms qualification fee of thirty dollars ($30) and a firearms requalification fee of twenty dollars ($20).

(k) The fingerprint processing fee is that amount charged the bureau by the Department of Justice.

(*l*) The processing fee required pursuant to Sections 7593.7 and 7598.14 is the amount equal to the expenses incurred to provide a photo identification card.

(m) The fee for a "Certificate of Licensure" of twenty-five dollars ($25).

(n) This section shall become operative on January 1, 1998.

SEC. 12. It is the intent of the Legislature that, upon enactment of this chapter, the one million four hundred eleven thousand dollars ($1,411,000) unallocated reduction proposed in the 1993–94 Governor's Budget shall be restored to the Bureau of Collection and Investigative Services. Accordingly, the amount of one million four hundred eleven thousand dollars ($1,411,000) is hereby appropriated as an augmentation to Item 1210-018-769, Budget Act of 1993, from the Private Investigator Fund.

SEC. 13. 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:

This act is an urgency statute necessary so that the programs of the Bureau of Collection and Investigative Services be maintained at an effective level to provide the public protection intended to be afforded by the legislative regulatory mandate within the meaning of Article IV of the Constitution and shall go into immediate effect. Without an increase in fees, the bureau's fund will face a substantial deficit in the 1993–94 fiscal year. Therefore, an urgency clause for the proposed legislation is mandatory.

CHAPTER 1267

An act to amend Sections 146, 803.5, 803.6, 805, 825, 2221, 2222, 2225, 2227, 2229, 2230, 2292, 2307, 2436, 2529, 2529.5, 2541.3, 2541.6, 2545, 2550, 2550.1, 2555.1, 2558, 2559, 2590, 2592, and 2596 of, to amend and repeal Section 2006 of, to amend, repeal, and add Sections 803, 2003, 2008, 2015, and 2435 of, to add Sections 116, 803.2, 2026, 2225.3, 2225.5, 2233, and 2280 to, to add, repeal, and add Section 803.1 to, to add Article 13 (commencing with Section 2330) to Chapter 5 of Division 2 of, to repeal Section 2240 of, and to repeal Article 13 (commencing with Section 2320) of Chapter 5 of Division 2 of, the Business and Professions Code, to add Section 43.96 to the Civil Code, to add Section 364.1 to the Code of Civil Procedure, to amend Sections 11372, 11373, and 11529 of, and to repeal, add, and repeal Section 11371 of, the Government Code, relating to discipline of health care professionals, and making an appropriation therefor.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 116 is added to the Business and Professions Code, to read:

116. (a) The director may audit and review, upon his or her own initiative, or upon the request of a consumer or licensee, inquiries and complaints regarding licensees, dismissals of disciplinary cases, the opening, conduct, or closure of investigations, informal conferences, and discipline short of formal accusation by the Medical Board of California, the allied health professional boards, and the California Board of Podiatric Medicine. The director may make recommendations for changes to the disciplinary system to the appropriate board, the Legislature, or both.

(b) The director shall report to the Chairpersons of the Senate Business and Professions Committee and the Assembly Health Committee annually, commencing March 1, 1995, regarding his or her findings from any audit, review, or monitoring and evaluation conducted pursuant to this section.

SEC. 2. Section 146 of the Business and Professions Code is amended to read:

146. (a) Notwithstanding any other provision of law, a violation of any code section listed in subdivision (c) is an infraction subject to the procedures described in Sections 19.6 and 19.7 of the Penal Code when:

(1) A complaint or a written notice to appear in court pursuant to Chapter 5c (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code is filed in court charging the offense as an infraction unless the defendant, at the time he or she is arraigned, after being advised of his or her rights, elects to have the case proceed as a misdemeanor, or

(2) The court, with the consent of the defendant and the prosecution, determines that the offense is an infraction in which event the case shall proceed as if the defendant has been arraigned on an infraction complaint.

(b) Subdivision (a) does not apply to a violation of the code sections listed in subdivision (c) if the defendant has had his or her license, registration, or certificate previously revoked or suspended.

(c) The following sections require registration, licensure, certification, or other authorization in order to engage in certain businesses or professions regulated by this code:

(1) Section 2630.
(2) Section 2903.
(3) Sections 3760 and 3761.
(4) Section 4825.
(5) Section 4980.
(6) Section 4996.
(7) Section 5536.
(8) Section 6704.
(9) Section 6980.10.
(10) Section 7317.
(11) Section 7502 or 7592.
(12) Section 7617 or 7641.
(13) Subdivision (a) of Section 7872.
(14) Section 8016.
(15) Section 8505.
(16) Section 8725.
(17) Section 9681.
(18) Section 9840.
(19) Section 9884.6
(20) Subdivision (c) of Section 9891.24.
(21) Section 19049.
(22) Sections 2052 and 2054.

(d) Notwithstanding any other provision of law, a violation of any of the sections listed in subdivision (c), which is an infraction, is punishable by a fine of not less than two hundred fifty dollars ($250) and not more than one thousand dollars ($1,000). No portion of the minimum fine may be suspended by the court unless as a condition

of that suspension the defendant is required to submit proof of a current valid license, registration, or certificate for the profession or vocation which was the basis for his or her conviction.

SEC. 2.5. Section 146 of the Business and Professions Code is amended to read:

146. (a) Notwithstanding any other provision of law, a violation of any code section listed in subdivision (c) is an infraction subject to the procedures described in Sections 19.6 and 19.7 of the Penal Code when:

(1) A complaint or a written notice to appear in court pursuant to Chapter 5c (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code is filed in court charging the offense as an infraction unless the defendant, at the time he or she is arraigned, after being advised of his or her rights, elects to have the case proceed as a misdemeanor, or

(2) The court, with the consent of the defendant and the prosecution, determines that the offense is an infraction in which event the case shall proceed as if the defendant has been arraigned on an infraction complaint.

(b) Subdivision (a) does not apply to a violation of the code sections listed in subdivision (c) if the defendant has had his or her license, registration, or certificate previously revoked or suspended.

(c) The following sections require registration, licensure, certification, or other authorization in order to engage in certain businesses or professions regulated by this code:

(1) Sections 2052 and 2054.
(1.5) Section 2630.
(2) Section 2903.
(3) Sections 3760 and 3761.
(3.5) Section 4080.
(4) Section 4825.
(4.5) Section 4935.
(5) Section 4980.
(6) Section 4996.
(7) Section 5536.
(8) Section 6704.
(9) Section 6980.10.
(10) Section 7317.
(11) Section 7520.
(12) Section 7502 or 7592.
(12.5) Section 7617 or 7641.
(13) Subdivision (a) of Section 7872.
(14) Section 8016.
(15) Section 8505.
(16) Section 8725.
(17) Section 9681.
(18) Section 9840.
(19) Section 9884.6
(20) Subdivision (c) of Section 9891.24.

(21) Section 19049.

(d) Notwithstanding any other provision of law, a violation of any of the sections listed in subdivision (c), which is an infraction, is punishable by a fine of not less than two hundred fifty dollars ($250) and not more than one thousand dollars ($1,000). No portion of the minimum fine may be suspended by the court unless as a condition of that suspension the defendant is required to submit proof of a current valid license, registration, or certificate for the profession or vocation which was the basis for his or her conviction.

SEC. 2.7. Section 146 of the Business and Professions Code is amended to read:

146. (a) Notwithstanding any other provision of law, a violation of any code section listed in subdivision (c) is an infraction subject to the procedures described in Sections 19.6 and 19.7 of the Penal Code when:

(1) A complaint or a written notice to appear in court pursuant to Chapter 5c (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code is filed in court charging the offense as an infraction unless the defendant, at the time he or she is arraigned, after being advised of his or her rights, elects to have the case proceed as a misdemeanor, or

(2) The court, with the consent of the defendant and the prosecution, determines that the offense is an infraction in which event the case shall proceed as if the defendant has been arraigned on an infraction complaint.

(b) Subdivision (a) does not apply to a violation of the code sections listed in subdivision (c) if the defendant has had his or her license, registration, or certificate previously revoked or suspended.

(c) The following sections require registration, licensure, certification, or other authorization in order to engage in certain businesses or professions regulated by this code:

(1) Sections 2052 and 2054.
(2) Section 2630.
(3) Section 2903.
(4) Sections 3760 and 3761.
(5) Section 4080.
(6) Section 4825.
(7) Section 4935.
(8) Section 4980.
(9) Section 4996.
(10) Section 5536.
(11) Section 6704.
(12) Section 6980.10.
(13) Section 7317.
(14) Section 7502 or 7592.
(15) Section 7520.
(16) Section 7617 or 7641.
(17) Subdivision (a) of Section 7872.
(18) Section 8016.

(19) Section 8505.
(20) Section 8725.
(21) Section 9681.
(22) Section 9840.
(23) Section 9884.6
(24) Subdivision (c) of Section 9891.24.
(25) Section 19049.

(d) Notwithstanding any other provision of law, a violation of any of the sections listed in subdivision (c), which is an infraction, is punishable by a fine of not less than two hundred fifty dollars ($250) and not more than one thousand dollars ($1,000). No portion of the minimum fine may be suspended by the court unless as a condition of that suspension the defendant is required to submit proof of a current valid license, registration, or certificate for the profession or vocation which was the basis for his or her conviction.

SEC. 2.9. Section 146 of the Business and Professions Code is amended to read:

146. (a) Notwithstanding any other provision of law, a violation of any code section listed in subdivision (c) is an infraction subject to the procedures described in Sections 19.6 and 19.7 of the Penal Code when:

(1) A complaint or a written notice to appear in court pursuant to Chapter 5c (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code is filed in court charging the offense as an infraction unless the defendant, at the time he or she is arraigned, after being advised of his or her rights, elects to have the case proceed as a misdemeanor, or

(2) The court, with the consent of the defendant and the prosecution, determines that the offense is an infraction in which event the case shall proceed as if the defendant has been arraigned on an infraction complaint.

(b) Subdivision (a) does not apply to a violation of the code sections listed in subdivision (c) if the defendant has had his or her license, registration, or certificate previously revoked or suspended.

(c) The following sections require registration, licensure, certification, or other authorization in order to engage in certain businesses or professions regulated by this code:

(1) Sections 2052 and 2054.
(2) Section 2630.
(3) Section 2903.
(4) Sections 3760 and 3761.
(5) Section 4080.
(6) Section 4825.
(7) Section 4935.
(8) Section 4980.
(9) Section 4996.
(10) Section 5536.
(11) Section 6704.
(12) Section 6980.10.

(13) Section 7317.
(14) Section 7502 or 7592.
(15) Section 7520.
(16) Section 7617 or 7641.
(17) Subdivision (a) of Section 7872.
(18) Section 8016.
(19) Section 8505.
(20) Section 8725.
(21) Section 9681.
(22) Section 9840.
(23) Section 9884.6
(24) Subdivision (c) of Section 9891.24.
(25) Section 19049.

(d) Notwithstanding any other provision of law, a violation of any of the sections listed in subdivision (c), which is an infraction, is punishable by a fine of not less than two hundred fifty dollars ($250) and not more than one thousand dollars ($1,000). No portion of the minimum fine may be suspended by the court unless as a condition of that suspension the defendant is required to submit proof of a current valid license, registration, or certificate for the profession or vocation which was the basis for his or her conviction.

SEC. 3. Section 803 of the Business and Professions Code is amended to read:

803. Within 10 days after a judgment by a court of this state that a person who holds a license, certificate, or other similar authority from the Board of Behavioral Science Examiners or from an agency mentioned in subdivision (a) of Section 800 (except a person licensed pursuant to Chapter 3 (commencing with Section 1200)) has committed a crime, or is liable for any death or personal injury resulting in a judgment for an amount in excess of thirty thousand dollars ($30,000) caused by his or her negligence, error or omission in practice, or his or her rendering unauthorized professional services, the clerk of the court which rendered the judgment shall report that fact to the agency that issued the license, certificate, or other similar authority.

This section shall remain in effect until July 1, 1995. If the Division of Medical Quality and the Board of Podiatric Medicine each adopt regulations, regarding disclosure of the information received pursuant to this section to inquiring members of the public, by July 1, 1995, this section shall remain in effect after July 1, 1995. If the Division of Medical Quality and the Board of Podiatric Medicine do not adopt those regulations, this section shall become inoperative 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. 4. Section 803 is added to the Business and Professions Code, to read:

803. (a) Within 10 days after a judgment by a court of this state

that a person who holds a license, certificate, or other similar authority from the Board of Behavioral Science Examiners or from an agency mentioned in subdivision (a) of Section 800 (except a person licensed pursuant to Chapter 3 (commencing with Section 1200)) has committed a crime, or is liable for any death or personal injury resulting in a judgment for an amount in excess of thirty thousand dollars ($30,000) caused by his or her negligence, error or omission in practice, or his or her rendering unauthorized professional services, the clerk of the court which rendered the judgment shall report that fact to the agency that issued the license, certificate, or other similar authority.

(b) Notwithstanding any other provision of law, the Medical Board of California and the Board of Podiatric Medicine shall disclose to an inquiring member of the public information received pursuant to subdivision (a) regarding felony convictions of, and judgments in excess of thirty thousand dollars ($30,000) against, a physician and surgeon or doctor of podiatric medicine. The Division of Medical Quality and the Board of Podiatric Medicine may formulate appropriate disclaimers or explanatory statements to be included with any information released, and may, by regulation, establish categories of information that need not be disclosed to the public because that information is unreliable or not sufficiently related to the licensee's professional practice.

(c) This section shall become operative on July 1, 1995, only if the board and the Board of Podiatric Medicine do not adopt regulations regarding disclosure of the information received pursuant to this section to inquiring members of the public by July 1, 1995.

SEC. 4.3. Section 803.1 is added to the Business and Professions Code, to read:

803.1. (a) The Medical Board of California and the Board of Podiatric Medicine may each adopt regulations governing disclosure of information to an inquiring member of the public regarding the status of the license of a licensee and enforcement actions taken against a licensee by either board or by another state or jurisdiction, including but not limited to, all of the following:

(1) Temporary restraining orders issued.

(2) Interim suspension orders issued.

(3) Limitations on practice ordered by the board.

(4) Public letters of reprimand issued.

(5) Infractions, citations, or fines imposed.

(b) Except as provided in this subdivision, this section shall remain in effect until July 1, 1995. If the Division of Medical Quality and the Board of Podiatric Medicine each adopt regulations in accordance with this section by July 1, 1995, this section shall remain in effect after July 1, 1995. If the Division of Medical Quality and the Board of Podiatric Medicine do not adopt those regulations, this section 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. 4.5. Section 803.1 is added to the Business and Professions Code, to read:

803.1. (a) Notwithstanding any other provision of law, the Medical Board of California and the Board of Podiatric Medicine shall disclose to an inquiring member of the public information regarding the status of the license of a licensee and any enforcement actions taken against a licensee by either board or by another state or jurisdiction, including, but not limited to, all of the following:

(1) Temporary restraining orders issued.

(2) Interim suspension orders issued.

(3) Limitations on practice ordered by the board.

(4) Public letters of reprimand issued.

(5) Infractions, citations, or fines imposed.

(b) The Division of Medical Quality and the Board of Podiatric Medicine may formulate appropriate disclaimers or explanatory statements to be included with any information released, and may, by regulation, establish categories of information that need not be disclosed to the public because that information is unreliable or not sufficiently related to the licensee's professional practice.

(c) This section shall become operative on July 1, 1995, only if the board and the Board of Podiatric Medicine do not adopt regulations regarding disclosure of the information described in subdivision (a) to inquiring members of the public by July 1, 1995.

SEC. 5. Section 803.2 is added to the Business and Professions Code, to read:

803.2. Every entry of judgment, settlement agreement, or arbitration award over thirty thousand dollars ($30,000) of a claim or action for damages for death or personal injury caused by the negligence, error, or omission in practice, or the unauthorized rendering of professional services, by a physician and surgeon or doctor of podiatric medicine licensed pursuant to Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act, when that judgment, settlement agreement, or arbitration award is entered against, or paid by, the employer of that licensee and not the licensee himself or herself, shall be reported to the appropriate board by the entity required to report the information in accordance with Sections 801, 802, and 803 as an entry of judgment, settlement, or award against the negligent licensee.

SEC. 6. Section 803.5 of the Business and Professions Code is amended to read:

803.5. (a) The district attorney, city attorney, or other prosecuting agency shall notify the Medical Board of California, the California Board of Podiatric Medicine, or other appropriate allied health board of any filings against a licensee of that board charging a felony immediately upon obtaining information that the defendant is a licensee of the board. The notice shall identify the licensee and describe the crimes charged and the alleged facts.

(b) The clerk of the court in which a licensee of one of the boards

is convicted of a crime shall, within 48 hours after the conviction, transmit a certified copy of the record of conviction to the applicable board. Where the licensee is regulated by an allied health board, the record of conviction shall be transmitted to that allied health board and the Medical Board of California.

SEC. 7. Section 803.6 of the Business and Professions Code is amended to read:

803.6. (a) The clerk of the court shall transmit any felony preliminary hearing transcript concerning a defendant licensee to the Medical Board of California and the applicable allied health board, or the California Board of Podiatric Medicine, as applicable, where the total length of the transcript is under 800 pages and shall notify the appropriate board of any proceeding where the transcript exceeds that length.

(b) In any case where a probation report on a licensee is prepared for a court pursuant to Section 1203 of the Penal Code, a copy of that report shall be transmitted by the probation officer to the board.

SEC. 8. Section 805 of the Business and Professions Code is amended to read:

805. (a) As used in this section, the following terms have the following definitions:

(1) "Peer review body" includes:

(A) A medical or professional staff of any health care facility or clinic licensed under Division 2 (commencing with Section 1200) of the Health and Safety Code or of a facility certified to participate in the federal Medicare program as an ambulatory surgical center.

(B) A health care service plan registered under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code or a nonprofit hospital service plan regulated under Chapter 11a (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code.

(C) Any medical, psychological, dental, or podiatric professional society having as members at least 25 percent of the eligible licentiates in the area in which it functions (which must include at least one county), which is not organized for profit and which has been determined to be exempt from taxes pursuant to Section 23701 of the Revenue and Taxation Code.

(D) A committee organized by any entity consisting of or employing more than 25 licentiates of the same class which functions for the purpose of reviewing the quality of professional care provided by members or employees of that entity.

(2) "Licentiate" means a physician and surgeon, podiatrist, clinical psychologist, or dentist.

(3) "Agency" means the relevant state licensing agency having regulatory jurisdiction over the licentiates listed in paragraph (2).

(4) "Staff privileges" means any arrangement under which a licentiate is allowed to practice in or provide care for patients in a health facility. Those arrangements shall include, but are not limited to, full staff privileges, active staff privileges, limited staff privileges,

auxiliary staff privileges, provisional staff privileges, temporary staff privileges, courtesy staff privileges, locum tenens arrangements, and contractual arrangements to provide professional services, including, but not limited to, arrangements to provide outpatient services.

(5) "Denial or termination of staff privileges, membership, or employment" includes failure or refusal to renew a contract or to renew, extend, or reestablish any staff privileges, when the action is based on medical disciplinary cause or reason.

(6) "Medical disciplinary cause or reason" means that aspect of a licentiate's competence or professional conduct which is reasonably likely to be detrimental to patient safety or to the delivery of patient care.

(7) "805 report" means the written report required under subdivision (b).

(b) The chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of any licensed health care facility or clinic shall file an 805 report with the relevant agency whenever any of the following actions are taken as a result of a determination of a peer review body:

(1) A licentiate's application for staff privileges or membership is denied or rejected for a medical disciplinary cause or reason.

(2) A licentiate's membership, staff privileges, or employment is terminated or revoked for a medical disciplinary cause or reason.

(3) Restrictions are imposed, or voluntarily accepted, on staff privileges, membership, or employment for a cumulative total of 30 days or more for any 12-month period, for a medical disciplinary cause or reason.

In addition to the duty to report as set forth in paragraphs (1), (2), and (3), the peer review body also has a duty to report under this section a licentiate's resignation or leave of absence from membership, staff, or employment following notice of an impending investigation based on information indicating medical disciplinary cause or reason.

The 805 report shall be filed within 15 days after the effective date of the denial, termination, restriction, resignation, or leave of absence, or after the exhaustion of administrative procedures, without regard to any filing for judicial review.

An 805 report shall also be filed within 15 days following the imposition of summary suspension of staff privileges, membership, or employment, if the summary suspension remains in effect for a period in excess of 14 days.

A copy of the 805 report, and a notice advising the licentiate of his or her right to submit additional statements or other information pursuant to Section 800, shall be sent by the peer review body to the licentiate named in the report.

The information to be reported in an 805 report shall include the name of the licentiate involved, a description of the facts and circumstances of the medical disciplinary cause or reason, and any

other relevant information deemed appropriate by the reporter.

A supplemental report shall also be made within 30 days following the date the licentiate is deemed to have satisfied any terms, conditions, or sanctions imposed as disciplinary action by the reporting peer review body. In performing its dissemination functions required by Section 805.5, the agency shall include a copy of a supplemental report, if any, whenever it furnishes a copy of the original 805 report.

In those instances where another peer review body is required to file an 805 report, a health care service plan or nonprofit hospital service plan is not required to file a separate report with respect to action attributable to the same medical disciplinary cause or reason.

(c) The reporting required herein shall not act as a waiver of confidentiality of medical records and committee reports. The information reported or disclosed shall be kept confidential except as provided in subdivision (c) of Section 800, provided that a copy of the report containing the information required by this section may be disclosed as required by Section 805.5 with respect to reports received on or after January 1, 1976.

(d) The Medical Board of California, the Osteopathic Medical Board of California, and the Board of Dental Examiners shall disclose reports as required by Section 805.5.

(e) An 805 report shall be maintained by an agency for dissemination purposes for a period of three years after receipt.

(f) No person shall incur any civil or criminal liability as the result of making any report required by this section.

(g) An intentional failure to make a report pursuant to this section is a public offense punishable by a fine not to exceed ten thousand dollars ($10,000).

(h) A failure by the administrator of any peer review body or the chief executive officer or administrator of any health care facility who is designated to transmit a report pursuant to this section whether or not the failure is intentional is punishable by a civil penalty not exceeding five thousand dollars ($5,000) per violation payable to the board with jurisdiction over the licensee in any action brought by the Attorney General.

SEC. 9. Section 825 of the Business and Professions Code is amended to read:

825. As used in this article with reference to persons holding licenses as physicians and surgeons, "licensing agency" means a panel of the Division of Medical Quality.

SEC. 10. Section 2003 of the Business and Professions Code is amended to read:

2003. The board shall consist of the following three divisions: a Division of Medical Quality, a Division of Licensing, and a Division of Allied Health Professions.

This section shall become inoperative on July 1, 1994, and as of January 1, 1995, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1995, deletes or extends the

dates on which it becomes inoperative and is repealed.

SEC. 11. Section 2003 is added to the Business and Professions Code, to read:

2003. The board shall consist of the following two divisions: a Division of Medical Quality, and a Division of Licensing. This section shall become operative on July 1, 1994.

SEC. 12. Section 2006 of the Business and Professions Code is amended to read:

2006. The Division of Allied Health Professions shall have the responsibility for the following:

(a) The activities of examining advisory committees and nonphysician licentiates under the jurisdiction of the board.

(b) The administration and hearing of disciplinary actions on nonphysician licentiates to the extent those actions are directly within the jurisdiction of the board.

(c) Carrying out disciplinary actions appropriate to findings made by examining committees within the board which have direct authority under law to administer those actions.

(d) Acting as liaison with other healing arts boards and agencies concerning the activities of the licentiates of those boards and agencies.

(e) This section shall become inoperative on July 1, 1994, and, as of January 1, 1995, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1995, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 13. Section 2008 of the Business and Professions Code is amended to read:

2008. The Division of Medical Quality shall consist of 12 members of the board, four of whom shall be public members. The Division of Licensing shall consist of seven members, three of whom shall be public members. The Division of Allied Health Professions shall consist of five members, two of whom shall be public members.

Each member appointed to the board shall be assigned by the Governor to a specific division.

This section shall become inoperative on July 1, 1994, and, as of January 1, 1995, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1995, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 14. Section 2008 is added to the Business and Professions Code, to read:

2008. The Division of Medical Quality shall consist of 12 members of the board, four of whom shall be public members. The Division of Licensing shall consist of seven members, three of whom shall be public members.

Each member appointed to the board shall be assigned by the Governor to a specific division, except that, commencing July 1, 1994, those members of the board who prior to July 1, 1994, were assigned to the Division of Allied Health Professions shall be members of the Division of Medical Quality.

This section shall become operative on July 1, 1994.

SEC. 15. Section 2015 of the Business and Professions Code is amended to read:

2015. The president of the board and each division may call meetings of any duly appointed and created committee of the board or division at a specified time and place.

This section shall become inoperative on July 1, 1994, and, as of January 1, 1995, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1995, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 16. Section 2015 is added to the Business and Professions Code, to read:

2015. (a) The president of the board and each division may call meetings of any duly appointed and created committee of the board or division at a specified time and place.

(b) The board shall create a Committee on Allied Health Professions of the board. The committee may advise the board and divisions on issues pertaining to the regulation of any allied health profession under the jurisdiction of the board or its divisions, or located within the board. Among other duties that the board may delegate to it, the committee may also advise the board on issues pertaining to other healing arts professions. Commencing July 1, 1994, all references to the Division of Allied Health Professions shall be deemed references to the board.

(c) This section shall become operative on July 1, 1994.

SEC. 17. Section 2026 is added to the Business and Professions Code, to read:

2026. (a) On or before March 1, 1995, the State Auditor, in accordance with Chapter 6.5 (commencing with Section 8543) of Division 1 of Title 2 of the Government Code, shall perform an audit of the entire disciplinary system, and shall send a copy of the report on the audit to the Chairpersons of the Senate Business and Professions Committee and the Assembly Health Committee.

(b) The audit shall include, but not be limited to, all of the following:

(1) The number of individuals investigated or disciplined pursuant to this chapter, by category of investigation and enforcement action.

(2) An itemized accounting for all moneys from the contingent fund of the board expended for enforcement and discipline, including, but not limited to, payments to the Office of Administrative Hearings and the office of the Attorney General, and amounts expended for services of investigators.

(3) A review of the services provided on behalf of the board by the Attorney General, including, but not limited to, caseload, staffing, case duration, and other information relevant to the assessment of these services. This review shall include an evaluation of the Attorney General's office in its performance of these services.

SEC. 18. 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 in conjunction with the administrative hearing procedures established pursuant to Sections 11371, 11372, 11373, and 11529 of the Government Code, and the review procedures set forth in Section 2335.

SEC. 19. Section 2222 of the Business and Professions Code is amended to read:

2222. The California Board of Podiatric Medicine shall enforce and administer this article as to doctors of podiatric medicine. Any acts of unprofessional conduct or other violations proscribed by this chapter are applicable to licensed doctors of podiatric medicine and wherever the Medical Quality Hearing Panel established under Section 11371 of the Government Code is vested with the authority to enforce and carry out this chapter as to licensed physicians and surgeons, the Medical Quality Hearing Panel also possesses that same authority as to licensed doctors of podiatric medicine.

The California Board of Podiatric Medicine may order the denial of an application or issue a certificate subject to conditions as set forth in Section 2221, or order the revocation, suspension, or other restriction of, or the modification of that penalty, and the reinstatement of any certificate of a doctor of podiatric medicine within its authority as granted by this chapter and in conjunction with the administrative hearing procedures established pursuant to Sections 11371, 11372, 11373, and 11529 of the Government Code. For

these purposes, the California Board of Podiatric Medicine shall exercise the powers granted and be governed by the procedures set forth in this chapter.

SEC. 20. Section 2225 of the Business and Professions Code is amended to read:

2225. (a) Notwithstanding Section 2263 and any other provision of law making a communication between a physician and surgeon or a podiatrist and his or her patients a privileged communication, those provisions shall not apply to investigations or proceedings conducted under this chapter. Members of the board, the Senior Assistant Attorney General of the Health Quality Enforcement Section, members of the California Board of Podiatric Medicine, and deputies, employees, agents, and representatives of the board or the Board of Podiatric Medicine and the Senior Assistant Attorney General of the Health Quality Enforcement Section shall keep in confidence during the course of investigations, the names of any patients whose records are reviewed and may not disclose or reveal those names, except as is necessary during the course of an investigation, unless and until proceedings are instituted. The authority of the board of the Board of Podiatric Medicine and the Health Quality Enforcement Section to examine records of patients in the office of a physician and surgeon or a podiatrist is limited to records of patients who have complained to the board or the Board of Podiatric Medicine about that licensee.

(b) Notwithstanding any other provision of law, the Attorney General and his or her investigative agents, and investigators and representatives of the board or the Board of Podiatric Medicine, may inquire into any alleged violation of the Medical Practice Act or any other federal or state law, regulation, or rule relevant to the practice of medicine or podiatric medicine, whichever is applicable, and may inspect documents relevant to those investigations in accordance with the following procedures:

(1) Any document relevant to an investigation may be inspected, and copies may be obtained, where patient consent is given.

(2) Any document relevant to the business operations of a licensee, and not involving medical records attributable to identifiable patients, may be inspected and copied where relevant to an investigation of a licensee.

(c) In all cases where documents are inspected or copies of those documents are received, their acquisition or review shall be arranged so as not to unnecessarily disrupt the medical and business operations of the licensee or of the facility where the records are kept or used.

(d) Where documents are requested from licensees in accordance with this section by the Attorney General or his or her agents or deputies, or investigators of the board or the Board of Podiatric Medicine, they shall be provided within 15 days of receipt of the request, unless the licensee is unable to provide the documents within this time period for good cause. Failure to produce requested

documents or copies thereof, after being informed of the required deadline, shall constitute unprofessional conduct.

(e) Searches conducted of the office or medical facility of any licensee shall not interfere with the recordkeeping format or preservation needs of any licensee necessary for the lawful care of patients.

SEC. 21. Section 2225.3 is added to the Business and Professions Code, to read:

2225.3. The board, the California Board of Podiatric Medicine, and the Attorney General, shall return any original documents received pursuant to Section 2225 to the licensee from whom they were obtained within seven calendar days.

SEC. 22. Section 2225.5 is added to the Business and Professions Code, to read:

2225.5. (a) A licensee who fails or refuses to comply with a request for medical records of a patient, that is accompanied by that patient's written authorization for release of records to the board, within 15 days of receiving the request and authorization, shall pay to the board a civil penalty of one thousand dollars ($1,000) per day for each day that the documents have not been produced after the 15th day, unless the licensee is unable to provide the documents within this time period for good cause.

(b) A licensee who fails or refuses to comply with a court order mandating the release of records to the board shall pay to the board a civil penalty of one thousand dollars ($1,000) per day for each day that the documents have not been produced after the date by which the court order requires the documents to be produced, unless it is determined that the order is unlawful or invalid.

(c) Imposition of the civil penalties authorized by this section shall be in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code).

SEC. 23. Section 2227 of the Business and Professions Code is amended to read:

2227. (a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty may, in accordance with the provisions of this chapter:

(1) Have his or her license revoked upon order of the division.

(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the division.

(3) Be placed on probation upon order of the division.

(4) Be publicly reprimanded by the division.

(5) Have any other action taken in relation to discipline as the division or an administrative law judge may deem proper.

(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, or other matters made confidential or privileged by existing law, is deemed

public, and shall be made available to the public by the board.

SEC. 24. Section 2229 of the Business and Professions Code is amended to read:

2229. (a) Protection of the public shall be the highest priority for the Division of Medical Quality, the California Board of Podiatric Medicine, and administrative law judges of the Medical Quality Hearing Panel in exercising their disciplinary authority.

(b) In exercising his or her disciplinary authority an administrative law judge of the Medical Quality Hearing Panel, the division, or the California Board of Podiatric Medicine, shall, wherever possible, take action that is calculated to aid in the rehabilitation of the licensee, or where, due to a lack of continuing education or other reasons, restriction on scope of practice is indicated, to order restrictions as are indicated by the evidence.

(c) It is the intent of the Legislature that the division, the California Board of Podiatric Medicine, and the enforcement program shall seek out those licensees who have demonstrated deficiencies in competency and then take those actions as are indicated, with priority given to those measures, including further education, restrictions from practice, or other means, that will remove those deficiencies. Where rehabilitation and protection are inconsistent, protection shall be paramount.

SEC. 25. Section 2230 of the Business and Professions Code is amended to read:

2230. (a) All proceedings against a licensee for unprofessional conduct, or against an applicant for licensure for unprofessional conduct or cause, shall be conducted 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) except as provided in this chapter, and shall be prosecuted by the Senior Assistant Attorney General of the Health Quality Enforcement Section.

(b) For the purpose of exercising its disciplinary authority against a physician and surgeon pursuant to this chapter and the Administrative Procedure Act, the Division of Medical Quality shall organize itself as two panels of six members. Two members of each panel shall be public members. The president of the division shall rotate the membership of the panels at least annually. For purposes of this article, "agency itself," as used in the Administrative Procedure Act, means a panel of the division as described in this subdivision. The decision or order of a panel imposing any disciplinary action pursuant to this chapter and the Administrative Procedure Act shall be final.

SEC. 26. Section 2233 is added to the Business and Professions Code, to read:

2233. The Division of Medical Quality may, by stipulation or settlement with the affected physician and surgeon, issue a public letter of reprimand after it has conducted an investigation or inspection as provided in this article, in lieu of filing or prosecuting

a formal accusation. The affected physician and surgeon shall indicate agreement or nonagreement in writing within 30 days of formal notification by the division of its intention to issue the letter. The division, at its option, may extend the response time. Use of a public reprimand shall be limited to minor violations and shall be issued under guidelines established by regulations of the board. A public letter of reprimand issued pursuant to this section may be disclosed to an inquiring member of the public.

SEC. 27. Section 2240 of the Business and Professions Code is repealed.

SEC. 28. Section 2280 is added to the Business and Professions Code, to read:

2280. No licensee shall practice medicine while under the influence of any narcotic drug or alcohol to such an extent as to impair his or her ability to conduct the practice of medicine with safety to the public and his or her patients. Violation of this section constitutes unprofessional conduct and is a misdemeanor.

SEC. 29. Section 2292 of the Business and Professions Code is amended to read:

2292. (a) A licensee may be ordered to undergo a professional competency examination if, after investigation and review by a medical expert designated by the division or the Board of Podiatric Medicine, as applicable, there is reasonable cause to believe that the licensee is unable to practice medicine with reasonable skill and safety to patients. Reasonable cause shall be demonstrated by one or more of the following: (1) a single incident of gross negligence; (2) a pattern of inappropriate prescribing; (3) an act of incompetence or negligence causing death or serious bodily injury; or (4) a pattern of substandard care.

(b) The results of a competency examination shall be admissible as direct evidence and may be considered relevant in any subsequent disciplinary or interim proceeding against the licensee taking it, and, assuming it is determined to be relevant, shall be considered together with other relevant evidence in making a final determination.

(c) Upon referral from the division, the matter shall be drafted and presented by the Senior Assistant Attorney General of the Health Quality Enforcement Section or his or her designee by way of a written petition detailing the reasonable cause. The petition shall contain all conclusions and facts upon which the presumption of reasonable cause is based. A copy of the petition shall be served on the physician who shall have the opportunity to file written opposition to the petition within 30 days after service. Service of the petition and any orders shall be in accordance with the methods of service authorized by subdivision (c) of Section 11505 of the Government Code.

(d) A panel of the division shall review the petition and any opposition paper from the physician, or the panel of the division, or an administrative law judge to whom the petition is assigned by the

division, may hold a hearing in accordance with the provisions of the Administrative Procedure Act to determine if reasonable cause exists, as specified in subdivision (a). The physician shall have the right to be represented at that hearing by the person of his or her choice. If the panel of the division or administrative law judge is satisfied that reasonable cause exists as to the circumstances specified in subdivision (a), the division or panel shall issue an order compelling the physician to undergo an examination of professional competency as measured by community standards. For purposes of this section, "community standards" means the statewide standards of the community of licensees. Failure to comply with the order duly served on the physician shall constitute unprofessional conduct for purposes of disciplinary proceedings.

SEC. 30. Section 2307 of the Business and Professions Code is amended to read:

2307. A person whose certificate has been revoked or suspended or who has been placed on probation may petition the Division of Medical Quality for reinstatement or modification of penalty, including modification or termination of probation, after a period of not less than the following minimum periods have elapsed from the effective date of the decision ordering that disciplinary action:

(a) At least three years for reinstatement of a license revoked for unprofessional conduct, except that the division may, for good cause shown, specify in a revocation order that a petition for reinstatement may be filed after two years.

(b) At least two years for early termination of probation of three years or more.

(c) At least one year for modification of a condition, or reinstatement of a license revoked for mental or physical illness, or termination of probation of less than three years.

The petition shall state any facts as may be required by the division. The petition shall be accompanied by at least two verified recommendations from physicians and surgeons licensed by the board who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed.

The petition may be heard by a panel of the division. The division may assign the petition to an administrative law judge designated in Section 11371 of the Government Code. After a hearing on the petition, the administrative law judge shall provide a proposed decision to the division or the California Board of Podiatric Medicine, as applicable, which shall be acted upon in accordance with Section 2335.

The panel of the division or the administrative law judge hearing the petition may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time the certificate was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability. The hearing may be continued from time to time as the administrative

law judge designated in Section 11371 of the Government Code finds necessary.

The administrative law judge designated in Section 11371 of the Government Code reinstating a certificate or modifying a penalty may recommend the imposition of any terms and conditions deemed necessary.

No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole. No petition shall be considered while there is an accusation or petition to revoke probation pending against the person. The division may deny without a hearing or argument any petition filed pursuant to this section within a period of two years from the effective date of the prior decision following a hearing under this section.

This section is applicable to and may be carried out with regard to licensees of the California Board of Podiatric Medicine. In lieu of two verified recommendations from physicians and surgeons, the petition shall be accompanied by at least two verified recommendations from podiatrists licensed by the board who have personal knowledge of the activities of the petitioner since the date the disciplinary penalty was imposed.

(d) Nothing in this section shall be deemed to alter Sections 822 and 823 of the Business and Professions Code.

SEC. 31. Article 13 (commencing with Section 2320) of Chapter 5 of Division 2 of the Business and Professions Code is repealed.

SEC. 32. Article 13 (commencing with Section 2330) is added to Chapter 5 of Division 2 of the Business and Professions Code, to read:

Article 13. Medical Adjudication

2330. Complainants against licensees of the board, including licensees of allied health boards within the jurisdiction of the board, and of the Board of Podiatric Medicine, who are subject to formal disciplinary proceedings shall be notified of the actions proposed to be taken against the licensee. This notification shall be provided only to complainants who are known to the boards.

Complainants shall be given an opportunity to provide a statement to the deputy attorney general from the Health Quality Enforcement Section who is assigned the case. These statements shall not be considered by a panel of the division, the Board of Podiatric Medicine, or other board for purposes of adjudicating the case to which the statement pertains, but may be considered by the division or those boards after the case is finally adjudicated for purposes of setting generally applicable policies and standards.

2332. (a) The Division of Medical Quality or the Health Quality Enforcement Section of the office of the Attorney General may establish panels or lists of experts as necessary to assist them in their respective duties. When the Division of Medical Quality or the Health Quality Enforcement Section seeks expert assistance or

witnesses, and the use of voluntary services is impractical, they may retain experts to assist them, and to prepare and present testimony as appropriate, at prevailing market rates. The board shall establish policies and procedures for the selection and use of those experts.

(b) The Division of Medical Quality may also adopt regulations to create a system of volunteer physicians and others in committees or panels to assist the board in any of the following functions:

(1) Monitoring of licensees who have been disciplined and are subject to terms and conditions of probation or diversion.

(2) Evaluation and administration of competency examinations.

(3) Assistance to practitioners with special problems.

(4) Supervision of licensees with practice restrictions.

(5) Advice regarding policy options and preventive strategies.

(c) Commencing January 1, 1994, any reference to a medical quality review committee shall be deemed a reference to a panel of the Division of Medical Quality.

2335. (a) All proposed decisions and interim orders of the Medical Quality Hearing Panel designated in Section 11371 of the Government Code shall be transmitted to the executive director of the board, or the executive director of the Board of Podiatric Medicine as to the licensees of that board, within 48 hours of filing.

(b) All interim orders shall be final when filed.

(c) A proposed decision shall be acted upon by a panel of the Division of Medical Quality or the Board of Podiatric Medicine, as the case may be, in accordance with Section 11517 of the Government Code, except that all of the following shall apply to proceedings against licensees under this chapter:

A panel of the division and the Board of Podiatric Medicine shall issue an order of nonadoption of a proposed decision within 90 calendar days of the date it is received by the board. If a panel of the division or the Board of Podiatric Medicine does not issue an order of nonadoption within 90 days, the decision shall be final and subject to review under Section 2337. If members of a panel of the division or the Board of Podiatric Medicine review a proposed decision or other matter and vote by mail as authorized in Section 11526 of the Government Code, then each member shall return his or her vote by mail to the board within 30 days from receipt of the proposed decision or other matter.

2337. Notwithstanding any other provision of law, superior court review of a decision revoking, suspending, or restricting a license shall take preference over all other civil actions in the matter of setting the case for hearing or trial. The hearing or trial shall be set no later than 180 days from the filing of the action. Further continuance shall be granted only on a showing of good cause.

This section shall remain operative until January 1, 1995, shall be inoperative from January 1, 1995, to January 1, 1999, and shall become operative again on January 1, 1999.

2337. Notwithstanding any other provision of law, review of final decisions of an administrative law judge of the Medical Quality

Hearing Panel, or the Division of Medical Quality or the Board of Podiatric Medicine in the event a review is ordered pursuant to Section 2335, shall be by writ of mandamus pursuant to Section 1094.5 of the Code of Civil Procedure before a district court of appeal. The court of appeal shall exercise its independent judgment in review of the proceedings below, and, where the court finds that there is relevant evidence that, in the exercise of reasonable diligence, could not have been produced, or that was improperly excluded at the hearing, it may admit the evidence without remanding the case.

The Judicial Council may adopt rules to allocate these cases to a particular panel or panels within each district for consistent and efficient consideration. Review shall be entitled to calendar priority, and the hearing shall be set no later than 180 days from the filing of the action.

This section shall become operative on January 1, 1995, and shall be repealed as of January 1, 1999, unless a later enacted statute, which is enacted before January 1, 1999, deletes or extends that date.

SEC. 33. Section 2435 of the Business and Professions Code is amended to read:

2435. The following fees apply to physician's and surgeon's certificates, certificates of drugless practitioners, and certificates to practice midwifery:

(a) Each applicant for a certificate based upon a national board diplomate certificate, and each applicant for a certificate based on reciprocity, and each applicant for a certificate based upon written examination, shall pay a nonrefundable application and processing fee, as set forth in subdivision (b), at the time the application is filed.

(b) The application and processing fee shall be fixed by the Division of Licensing by May 1 of each year, to become effective on July 1 of that year. The fee shall be fixed at an amount necessary to recover the actual costs of the licensing program as projected for the fiscal year commencing on the date the fees become effective.

(c) Each applicant for a certificate by written examination, unless otherwise provided by this chapter, shall pay an examination fee fixed by the board, which shall equal the actual cost to the board of the purchase of the written examination furnished by the organization pursuant to Section 2176, plus the actual cost to the board of administering the written examination. The actual cost to the board of administering the written examination that shall be charged to the applicant shall not exceed one hundred dollars ($100). The board may charge the examination fee provided for in this section 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 herein, shall pay an initial license fee, if any. The initial license fee shall be fixed by the board at an amount not to exceed six hundred dollars ($600), in accordance with paragraph (2) of subdivision (e). Any applicant enrolled in an approved postgraduate training program shall be required to pay only 50 percent of the initial license fee.

(e) (1) The biennial renewal fee shall be fixed by the board at an amount not to exceed six hundred dollars ($600), in accordance with paragraph (2).

(2) The board shall fix the biennial renewal fee and the initial license fee so that, together with the amounts from other revenues, the reserve balance in the board's contingent fund shall be equal to approximately two months of annual authorized expenditures. Any change in the renewal and initial license fees shall be effective upon a determination by the board, by emergency regulations adopted pursuant to Section 2436, that changes in the amounts are necessary to maintain a reserve balance in the board's contingent fund equal to two months of annual authorized expenditures in the state fiscal year in which the expenditures are to occur.

(f) Notwithstanding Section 163.5, the delinquency fee is 10 percent of the biennial renewal fee.

(g) The duplicate certificate and endorsement fees shall each be fifty dollars ($50), and the certification and letter of good standing fees shall each be ten dollars ($10).

(h) It is the intent of the Legislature that, in setting fees pursuant to this section, the board shall seek to maintain a reserve in the Contingent Fund of the Medical Board of California equal to approximately two months' operating expenditures.

(i) The board shall report to the appropriate policy and fiscal committees of each house of the Legislature whenever the board proposes or approves a fee increase pursuant to this section. The board shall specify the reasons for each increase and identify the percentage of funds to be derived from an increase in the fees that will be used for investigation or enforcement related activities by the board.

SEC. 33.5. Section 2435 is added to the Business and Professions Code, to read:

2435. The following fees apply to physician's and surgeon's certificates, certificates of drugless practitioners, and certificates to practice midwifery:

(a) Each applicant for a certificate based upon a national board diplomate certificate, and each applicant for a certificate based on reciprocity, and each applicant for a certificate based upon written examination, shall pay a nonrefundable application and processing fee, as set forth in subdivision (b), at the time the application is filed.

(b) The application and processing fee shall be fixed by the Division of Licensing by May 1 of each year, to become effective on July 1 of that year. The fee shall be fixed at an amount necessary to recover the actual costs of the licensing program as projected for the fiscal year commencing on the date the fees become effective.

(c) Each applicant for a certificate by written examination, unless otherwise provided by this chapter, shall pay an examination fee fixed by the board, which shall equal the actual cost to the board of the purchase of the written examination furnished by the organization pursuant to Section 2176, plus the actual cost to the

board of administering the written examination. The actual cost to the board of administering the written examination that shall be charged to the applicant shall not exceed one hundred dollars ($100). The board may charge the examination fee provided for in this section 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 herein, shall pay an initial license fee, if any. The initial license fee shall be fixed by the board at an amount not to exceed five hundred dollars ($500), in accordance with paragraph (2) of subdivision (e). Any applicant enrolled in an approved postgraduate training program shall be required to pay only 50 percent of the initial license fee.

(e) (1) The biennial renewal fee shall be fixed by the board at an amount not to exceed five hundred dollars ($500), in accordance with paragraph (2).

(2) The board shall fix the biennial renewal fee and the initial license fee so that, together with the amounts from other revenues, the reserve balance in the board's contingent fund shall be equal to approximately two months of annual authorized expenditures. Any change in the renewal and initial license fees shall be effective upon a determination by the board, by emergency regulations adopted pursuant to Section 2436, that changes in the amounts are necessary to maintain a reserve balance in the board's contingent fund equal to two months of annual authorized expenditures in the state fiscal year in which the expenditures are to occur.

(f) Notwithstanding Section 163.5, the delinquency fee is 10 percent of the biennial renewal fee.

(g) The duplicate certificate and endorsement fees shall each be fifty dollars ($50), and the certification and letter of good standing fees shall each be ten dollars ($10).

(h) It is the intent of the Legislature that, in setting fees pursuant to this section, the board shall seek to maintain a reserve in the Contingent Fund of the Medical Board of California equal to approximately two months' operating expenditures.

(i) The board shall report to the appropriate policy and fiscal committees of each house of the Legislature whenever the board proposes or approves a fee increase pursuant to this section. The board shall specify the reasons for each increase and identify the percentage of funds to be derived from an increase in the fees that will be used for investigation or enforcement related activities by the board.

SEC. 34. Section 2436 of the Business and Professions Code is amended to read:

2436. The fees in this article fixed by the board shall be set forth as emergency regulations duly adopted by the Division of Licensing.

SEC. 35. Section 2529 of the Business and Professions Code is amended to read:

2529. Graduates of the Southern California Psychoanalytic Institute, the Los Angeles Psychoanalytic Society and Institute, the

San Francisco Psychoanalytic Institute, the San Diego Psychoanalytic Institute, or institutes deemed equivalent by the Division of Licensing who have completed clinical training in psychoanalysis may engage in psychoanalysis as an adjunct to teaching, training, or research and hold themselves out to the public as psychoanalysts, and students in such institutes may engage in psychoanalysis under supervision, provided that such students and graduates do not hold themselves out to the public by any title or description of services incorporating the words "psychological," "psychologist," "psychology," "psychometrists," "psychometrics," or "psychometry," or that they do not state or imply that they are licensed to practice psychology.

Those students and graduates seeking to engage in psychoanalysis under this chapter shall register with the Division of Licensing, presenting evidence of their student or graduate status. The division may suspend or revoke the exemption of such persons for unprofessional conduct as defined in Sections 725, 2234, and 2235.

SEC. 36. Section 2529.5 of the Business and Professions Code is amended to read:

2529.5. Each person to whom registration is granted under the provisions of this chapter shall pay into the Contingent Fund of the Medical Board of California a fee to be fixed by the Division of Licensing at a sum not in excess of one hundred dollars ($100).

The registration shall expire after two years. The registration may be renewed biennially at a fee to be fixed by the division at a sum not in excess of fifty dollars ($50). Students seeking to renew their registration shall present to the division evidence of their continuing student status.

The money in the Contingent Fund of the Medical Board of California necessary for the administration of this chapter is hereby continuously appropriated for such purposes.

SEC. 37. Section 2541.3 of the Business and Professions Code is amended to read:

2541.3. The State Department of Health Services, the State Board of Optometry and the Division of Licensing and Division of Medical Quality of the Medical Board of California shall prepare and adopt quality standards and adopt regulations relating to prescription ophthalmic devices, including, but not limited to, lenses, frames, and contact lenses. Regulations adopted subsequent to those in effect on July 1, 1976, shall become operative July 1, 1978. In promulgating such rules and regulations, the department and the boards shall adopt the current standards of the American National Standards Institute regarding ophthalmic materials. Nothing in this section shall prohibit the department and the boards from jointly adopting subsequent standards which are equivalent or more stringent than the current standards of the American National Standards Institute regarding ophthalmic materials.

No individual or group which deals with prescription ophthalmic devices, including, but not limited to, distributors, dispensers,

manufacturers, laboratories, optometrists or ophthalmologists shall sell, dispense, or furnish any prescription ophthalmic device which does not meet the minimum standards set by the State Department of Health Services, the State Board of Optometry or the Division of Licensing and Division of Medical Quality of the Medical Board of California.

Any violation of the regulations adopted by the State Department of Health Services, the State Board of Optometry or the Division of Licensing and Division of Medical Quality of the Medical Board of California pursuant to this section shall be a misdemeanor.

Any optometrist, ophthalmologist, or dispensing optician who violates the regulations adopted by the State Department of Health Services, the State Board of Optometry or the Division of Licensing and Division of Medical Quality of the Medical Board of California pursuant to this section shall be subject to disciplinary action by his or her licensing board.

The State Board of Optometry or the Division of Licensing and Division of Medical Quality of the Medical Board of California may send any prescription ophthalmic device to the State Department of Health Services for testing as to whether or not such device meets established standards adopted pursuant to this section, which testing shall take precedence over any other prescription ophthalmic device testing being conducted by the department. The department may conduct such testing in its own facilities or may contract with any other facility to conduct such testing.

SEC. 38. Section 2541.6 of the Business and Professions Code is amended to read:

2541.6. Effective January 1, 1977, no prescription ophthalmic device which does not meet the standards adopted by the State Department of Health Services, the State Board of Optometry or the Division of Licensing and Division of Medical Quality of the Medical Board of California under Section 2541.3 shall be purchased with state funds.

SEC. 39. Section 2545 of the Business and Professions Code is amended to read:

2545. Whenever any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, an offense against this chapter, the superior court in and for the county wherein the acts or practices take place, or are about to take place, may issue an injunction, or other appropriate order, restraining the conduct on application of the State Board of Optometry, the Division of Licensing of the Medical Board of California, the Osteopathic Medical Board of California, the Attorney General, or the district attorney of the county.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

SEC. 40. Section 2550 of the Business and Professions Code is amended to read:

2550. Individuals, corporations, and firms engaged in the business of filling prescriptions of physicians and surgeons licensed by the Division of Licensing of the Medical Board of California or optometrists licensed by the State Board of Optometry for prescription lenses and kindred products, and, as incidental to the filling of those prescriptions, doing any or all of the following acts, either singly or in combination with others, taking facial measurements, fitting and adjusting those lenses and fitting and adjusting spectacle frames, shall be known as dispensing opticians and shall not engage in that business unless registered with the Division of Licensing of the Medical Board of California.

SEC. 41. Section 2550.1 of the Business and Professions Code is amended to read:

2550.1. All references in this chapter to the board or the Board of Medical Examiners or division shall mean the Division of Licensing of the Medical Board of California.

SEC. 42. Section 2555.1 of the Business and Professions Code is amended to read:

2555.1. In the discretion of the Division of Licensing, a certificate issued hereunder may be suspended or revoked if an individual certificate holder or persons having any proprietary interest who will engage in dispensing operations, have been convicted of a crime substantially related to the qualifications, functions and duties of a dispensing optician. The record of conviction or a certified copy thereof shall be conclusive evidence of the conviction.

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a dispensing optician is deemed to be a conviction within the meaning of this article. The board may order the certificate suspended or revoked, or may decline to issue a certificate, 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 the provisions of Section 1203.4 of the Penal Code allowing 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.

The proceeding under 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, and the board shall have all the powers granted therein.

This section shall become operative on January 1, 1988.

SEC. 43. Section 2558 of the Business and Professions Code is amended to read:

2558. Any person who violates any of the provisions of this chapter is guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment in the county jail not less than 10 days nor more than one year, or by a fine of not less than two hundred

dollars ($200) nor more than one thousand dollars ($1,000) or by both such fine and imprisonment.

The Division of Licensing of the Medical Board of California may adopt, amend, or repeal, in accordance with the Administrative Procedure Act, any regulations as are reasonably necessary to carry out this chapter.

SEC. 44. Section 2559 of the Business and Professions Code is amended to read:

2559. Whenever any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, a violation of any provision of this chapter, or Chapter 5.4 (commencing with Section 2540), the superior court in and for the county wherein the acts or practices take place, or are about to take place, may issue an injunction, or other appropriate order, restraining such conduct on application of the Division of Licensing of the Medical Board of California, the Attorney General or the district attorney of the county.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

SEC. 45. Section 2590 of the Business and Professions Code is amended to read:

2590. (a) For purposes of this section, "perfusion" means those functions necessary for the support, treatment, measurement, or supplementation of the cardiovascular system, circulatory system with or without the oxygenation circuit, or any combination of those activities, and to ensure the safe management of physiologic functions by monitoring the necessary parameters of those systems pursuant to an order and under the supervision of a licensed physician and surgeon.

(b) Perfusion services include, but are not limited to, all of the following:

(1) The use of extracorporeal circulation, cardiopulmonary support techniques, and other ancillary therapeutic and diagnostic technologies. "Extracorporeal circulation," as used in this section, means the diversion of a patient's blood through a heart-lung machine or a similar device which assumes the functions of the patient's heart, lungs, or both.

(2) Counterpulsation, ventricular assistance, autotransfusion, including blood conservation techniques, myocardial and organ preservation, extracorporeal life support, and isolated limb perfusion.

(3) The use of techniques involving blood management, advanced life support, and other related functions.

(c) Perfusion services also include, but only during the performance of functions described in subdivision (b), the following:

(1) The administration of pharmacological and therapeutic agents, blood products, or anesthetic agents through the extracorporeal circuit or through an intravenous line as ordered by

a physician and surgeon.

(2) The use of anticoagulation analysis, physiologic monitoring, blood gas and chemistry analysis, hematocrit analysis, hypothermia, hyperthermia, hemoconcentration, and hemodilution. Nothing in this paragraph shall exempt perfusionists from the requirements of the Clinical Laboratory Improvement Amendments of 1988 (P.L. 100-578) or from the requirements of Chapter 3 (commencing with Section 1200).

(3) The observation of signs and symptoms related to perfusion services.

(4) Making a determination whether the signs and symptoms related to perfusion services exhibit abnormal characteristics.

(5) Implementation, based on observed abnormalities, of appropriate reporting, or perfusion protocols, or changes in treatment regimen, pursuant to an order by a physician and surgeon or the initiation of emergency procedures. "Perfusion protocols" as used in this section means perfusion-related policies and protocols developed or approved by a licensed health facility or a physician and surgeon through collaboration with administrators and health professionals, including perfusionists.

(d) Commencing January 1, 1993, no person shall hold himself or herself out as a perfusionist, unless at the time of doing so the person meets the educational and examination requirements specified in subdivisions (e) and (f).

(e) Except as provided in subdivision (f), persons holding themselves out as perfusionists shall be graduates of a training program described in Section 2592 and produce satisfactory evidence of successful completion of the entire examination of the American Board of Cardiovascular Perfusion or the equivalent thereof if an equivalent is determined to be necessary by the Division of Licensing of the Medical Board of California.

(f) Any person may be deemed to have completed the equivalent of the examination and education requirements if that person is currently certified by the American Board of Cardiovascular Perfusion, or if, as of January 1, 1993, the person has practiced as a perfusionist and has annually performed a minimum of 40 cases of cardiopulmonary bypass during cardiopulmonary surgery in a licensed health facility and has done so for at least five years since January 1, 1987. For the purposes of this subdivision, "licensed health facility" means a health facility licensed in any jurisdiction within the United States.

(g) In order to continue to use the title of "perfusionist," the person shall complete the continuing education requirements of, or maintain active certification by, the American Board of Cardiovascular Perfusion, or the equivalent if an equivalent is determined to be necessary by the Division of Licensing of the Medical Board of California.

(h) Any person who violates this section is guilty of a misdemeanor.

SEC. 45.5. Section 2590 of the Business and Professions Code is amended to read:

2590. (a) For purposes of this section, "perfusion" means those functions necessary for the support, treatment, measurement, or supplementation of the cardiovascular system, circulatory system with or without the oxygenation circuit, or any combination of those activities, and to ensure the safe management of physiologic functions by monitoring the necessary parameters of those systems pursuant to an order and under the supervision of a licensed physician and surgeon.

(b) Perfusion services include, but are not limited to, all of the following:

(1) The use of extracorporeal circulation, cardiopulmonary support techniques, and other ancillary therapeutic and diagnostic technologies. "Extracorporeal circulation," as used in this section, means the diversion of a patient's blood through a heart-lung machine or a similar device which assumes the functions of the patient's heart, lungs, or both.

(2) Counterpulsation, ventricular assistance, autotransfusion, including blood conservation techniques, myocardial and organ preservation, extracorporeal life support, and isolated limb perfusion.

(3) The use of techniques involving blood management, advanced life support, and other related functions.

(c) Perfusion services also include, but only during the performance of functions described in subdivision (b), the following:

(1) The administration of pharmacological and therapeutic agents, blood products, or anesthetic agents through the extracorporeal circuit or through an intravenous line as ordered by a physician and surgeon.

(2) The performance and use of anticoagulation analysis, physiologic monitoring, blood gas and chemistry analysis, hematocrit analysis, hypothermia, hyperthermia, hemoconcentration, and hemodilution. Nothing in this paragraph shall exempt perfusionists from the requirements of the Clinical Laboratory Improvement Amendments of 1988 (P.L. 100-578) or from the nonpersonnel related requirements of Chapter 3 (commencing with Section 1200), including, but not limited to, quality assurance and equipment maintenance requirements.

(3) The observation of signs and symptoms related to perfusion services.

(4) Making a determination whether the signs and symptoms related to perfusion services exhibit abnormal characteristics.

(5) Implementation, based on observed abnormalities, of appropriate reporting, or perfusion protocols, or changes in treatment regimen, pursuant to an order by a physician and surgeon, or the initiation of emergency procedures. "Perfusion protocols" as used in this section means perfusion-related policies and protocols developed or approved by a licensed health facility or a physician

and surgeon through collaboration with administrators and health professionals, including perfusionists.

(d) Commencing January 1, 1993, no person shall hold himself or herself out as a perfusionist, unless at the time of doing so the person meets the educational and examination requirements specified in subdivisions (e) and (f).

(e) Except as provided in subdivision (f), persons holding themselves out as perfusionists shall be graduates of a training program described in Section 2592 and produce satisfactory evidence of successful completion of the entire examination of the American Board of Cardiovascular Perfusion or the equivalent thereof if an equivalent is determined to be necessary by the Division of Licensing of the Medical Board of California.

(f) Any person may be deemed to have completed the equivalent of the examination and education requirements if that person is currently certified by the American Board of Cardiovascular Perfusion, or if, as of January 1, 1993, the person has practiced as a perfusionist and has annually performed a minimum of 40 cases of cardiopulmonary bypass during cardiopulmonary surgery in a licensed health facility and has done so for at least five years since January 1, 1987. For the purposes of this subdivision, "licensed health facility" means a health facility licensed in any jurisdiction within the United States.

(g) In order to continue to use the title of "perfusionist," the person shall complete the continuing education requirements of, or maintain active certification by, the American Board of Cardiovascular Perfusion, or the equivalent if an equivalent is determined to be necessary by the Division of Licensing of the Medical Board of California.

(h) Any person who violates this section is guilty of a misdemeanor.

SEC. 46. Section 2592 of the Business and Professions Code is amended to read:

2592. (a) Except as otherwise provided in Section 2590, all persons calling themselves perfusionists shall be graduates of an approved perfusion training program.

(b) For purposes of this article, an "approved perfusion training program" means a training program in perfusion reviewed by the Accreditation Committee on Perfusion Education of the Committee on Allied Health Education and Accreditation of the American Medical Association, and approved by the Committee on Allied Health Education and Accreditation of the American Medical Association, or the equivalent training program if an equivalent is determined to be necessary by the Division of Licensing of the Medical Board of California.

SEC. 47. Section 2596 of the Business and Professions Code is amended to read:

2596. It is the intent of the Legislature that authority be reserved to the Division of Licensing of the Medical Board of California to

adopt examination, continuing education, and training standards for perfusionists, with appropriate consultation, in the event that existing standards of the American Board of Cardiovascular Perfusion or the Accreditation Committee on Perfusion Education of the Committee on Allied Health Education and Accreditation of the American Medical Association prove inadequate after an appropriate trial period of at least three years.

SEC. 48. Section 43.96 is added to the Civil Code, to read:

43.96. (a) Any medical or podiatric society, health facility licensed or certified under Division 2 (commencing with Section 1200) of the Health and Safety Code, state agency as defined in Section 11000 of the Government Code, or local government agency that receives complaints or other information about a physician and surgeon or doctor of podiatric medicine from the public shall inform the complainant that the Medical Board of California or the Board of Podiatric Medicine, as the case may be, is the only authority in the state that may take disciplinary action against the license of the named licensee, and shall provide to the complainant the address and toll-free telephone number of the applicable state board.

(b) The immunity provided in Section 2318 of the Business and Professions Code and in Section 47 shall apply to complaints and information made or provided to a board pursuant to this section.

SEC. 49. Section 364.1 is added to the Code of Civil Procedure, to read:

364.1. No action based upon the professional negligence of a physician and surgeon or doctor of podiatric medicine may be commenced unless the 90-day prior notice required by Section 364 is also sent to the Medical Board of California or the Board of Podiatric Medicine, as applicable, at the same time it is sent to the defendant. The Medical Board of California or the Board of Podiatric Medicine shall maintain the notice as a confidential part of a potential investigation file.

SEC. 50. Section 11371 of the Government Code is repealed.

SEC. 51. Section 11371 is added to the Government Code, to read:

11371. (a) There is within the Office of Administrative Hearings a Medical Quality Hearing Panel, consisting of no fewer than five full-time administrative law judges. The administrative law judges shall have medical training as recommended by the Division of Medical Quality of the Medical Board of California and approved by the Director of the Office of Administrative Hearings.

(b) The director shall determine the qualifications of panel members, supervise their training, and coordinate the publication of a reporter of decisions pursuant to this section. The panel shall include only those persons specifically qualified and shall at no time constitute more than 25 percent of the total number of administrative law judges within the Office of Administrative Hearings. If the members of the panel do not have a full workload, they may be assigned work by the Director of the Office of Administrative Hearings. When the medically related case workload

exceeds the capacity of the members of the panel, additional judges shall be requested to be added to the panels as appropriate. When this workload overflow occurs on a temporary basis, the Director of the Office of Administrative Hearings shall supply judges from the Office of Administrative Hearings to adjudicate the cases.

(c) The decisions of the administrative law judges of the panel, together with any court decisions reviewing those decisions, or any court decisions relevant to medical quality adjudications shall be published in a quarterly "Medical Discipline Report," to be funded from the Contingent Fund of the Medical Board of California.

(d) The administrative law judges of the panel shall have panels of experts available. The panels of experts shall be appointed by the Director of the Office of Administrative Hearings, with the advice of the Medical Board of California. These panels of experts may be called as witnesses by the administrative law judges of the panel to testify on the record about any matter relevant to a proceeding and subject to cross examination by all parties. The administrative law judge may award reasonable expert witness fees to any person or persons serving on a panel of experts, which shall be paid from the Contingent Fund of the Medical Board of California.

(e) On or before April 1, 1997, the Medical Board of California shall prepare, in consultation with the Office of Administrative Hearings, an analysis and report that evaluates the effectiveness of the Medical Quality Hearing Panel since its creation. Among other things, the report shall analyze whether administrative adjudications against physicians have been expedited, the aging of cases at the office, whether administrative decisions and penalties ordered in the discipline of physicians have become more consistent, and whether the panels of the Division of Medical Quality have adopted more proposed decisions than prior to the creation of the panel. The board shall send a copy of its report to the Chairpersons of the Senate Committee on Business and Professions and the Assembly Committee on Health, to the Office of Administrative Hearings, and to the Director of Consumer Affairs.

(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.

SEC. 52. Section 11372 of the Government Code is amended to read:

11372. (a) Except as provided in subdivision (b), all adjudicative hearings and proceedings relating to the discipline or reinstatement of licensees of the Medical Board of California, including licensees of allied health agencies within the jurisdiction of the Medical Board of California, that are heard pursuant to the Administrative Procedure Act, shall be conducted by an administrative law judge as designated in Section 11371, sitting alone if the case is so assigned by the agency filing the charging pleading.

(b) Proceedings relating to interim orders shall be heard in accordance with Section 11529.

SEC. 53. Section 11373 of the Government Code is amended to read:

11373. All adjudicative hearings and proceedings conducted by an administrative law judge as designated in Section 11371 shall be conducted under the terms and conditions set forth in the Administrative Procedure Act, except as provided in the Medical Practice Act (Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code).

SEC. 54. Section 11529 of the Government Code is amended to read:

11529. (a) The administrative law judge of the Medical Quality Hearing Panel established pursuant to Section 11371 may issue an interim order suspending a license, or imposing drug testing, continuing education, supervision of procedures, or other license restrictions. Interim orders may be issued only if the affidavits in support of the petition show that the licensee has engaged in, or is about to engage in, acts or omissions constituting a violation of the Medical Practice Act or the appropriate practice act governing each allied health profession, and that permitting the licensee to continue to engage in the profession for which the license was issued will endanger the public health, safety, or welfare.

(b) All orders authorized by this section shall be issued only after a hearing conducted pursuant to subdivision (d), unless it appears from the facts shown by affidavit that serious injury would result to the public before the matter can be heard on notice. Except as provided in subdivision (c), the licensee shall receive at least 15 days' prior notice of the hearing, which notice shall include affidavits and all other information in support of the order.

(c) If an interim order is issued without notice, the administrative law judge who issued the order without notice shall cause the licensee to be notified of the order, including affidavits and all other information in support of the order by a 24-hour delivery service. That notice shall also include the date of the hearing on the order, which shall be conducted in accordance with the requirement of subdivision (d), not later than 20 days from the date of issuance. The order shall be dissolved unless the requirements of subdivision (a) are satisfied.

(d) For the purposes of the hearing conducted pursuant to this section, 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 present written evidence in the form of relevant declarations, affidavits, and documents.

The discretion of the administrative law judge to permit testimony at the hearing conducted pursuant to this section shall be identical to the discretion of a superior court judge to permit testimony at a hearing conducted pursuant to Section 527 of the Code of Civil

Procedure.

(4) To present oral argument.

(e) Consistent with the burden and standards of proof applicable to a preliminary injunction entered under Section 527 of the Code of Civil Procedure, the court shall grant the interim order where, in the exercise of its discretion, it concludes that:

(1) There is a reasonable probability that the petitioner will prevail in the underlying action.

(2) The likelihood of injury to the public in not issuing the order outweighs the likelihood of injury to the licensee in issuing the order.

(f) In all cases where an interim order is issued, and an accusation is not filed and served pursuant to Sections 11503 and 11505 within 15 days of the date in which the parties to the hearing on the interim order have submitted the matter, the order shall be dissolved.

Upon service of the accusation the licensee shall have, in addition to the rights granted by this section, all of the rights and privileges available as specified in this chapter. If the licensee requests a hearing on the accusation, the board shall provide the licensee with a hearing within 30 days of the request, unless the licensee stipulates to a later hearing, and a decision within 15 days of the date that matter is submitted, or the board shall nullify the interim order previously issued, unless good cause can be shown by the division for a delay.

(g) Where an interim order is issued, a written decision shall be prepared within 15 days of the hearing, by the administrative law judge, including findings of fact and a conclusion articulating the connection between the evidence produced at the hearing and the decision reached.

(h) Notwithstanding the fact that interim orders issued pursuant to this section are not issued after a hearing as otherwise required by this chapter, interim orders so issued shall be subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure. The relief which may be ordered shall be limited to a stay of the interim order. Interim orders issued pursuant to this section are final interim orders and, if not dissolved pursuant to subdivision (c) or (f), may only be challenged administratively at the hearing on the accusation.

(i) The interim order provided for by this section shall be in addition to, and not a limitation on, the authority to seek injunctive relief provided for in the Business and Professions Code.

SEC. 55. The fee increases proposed by this bill shall not go into effect if any funds are transferred pursuant to the Budget Act of 1993, or other legislation, from the Contingent Fund of the Medical Board of California to the General Fund in the 1993–94 fiscal year.

Accordingly, if any funds are transferred pursuant to the Budget Act of 1993, or other legislation from the Contingent Fund of the Medical Board of California to the General Fund in the 1993–94 fiscal year, Section 2435 of the Business and Professions Code, as amended by Section 33 of this bill, shall be repealed on the date of the transfer

or on January 1, 1994, whichever is later, and Section 2435 of the Business and Professions Code, as added by Section 33.5 of this bill, shall become operative on that date.

Further, if that contingency does occur, any fees collected in excess of the limits imposed by Section 2435 of the Business and Professions Code, as added by Section 33.5 of this bill, shall be refunded.

However, if that contingency does not occur, Section 2435 of the Business and Professions Code, as added by Section 33.5 of this bill, shall not become operative.

SEC. 56. In the event that the California Medical Association prevails in its complaint for injunction and other relief with respect to the transfer of principal and interest from the Contingent Fund of the Medical Board of California to the General Fund, all moneys returned to the Contingent Fund of the Medical Board of California shall be used to offset any license fee increase authorized by Section 33 of this bill.

SEC. 57. The Medical Board of California shall prepare an itemized report and submit it to the Chairpersons of the Senate Business and Professions Committee and the Assembly Health Committee regarding the use of revenues received due to the fee increase authorized by Section 33 of this bill. The report shall be submitted by March 1, 1995.

SEC. 58. It is the intent of the Legislature to substitute the standard governing the issuance of a preliminary injunction under Section 527 of the Code of Civil Procedure for the "clear and convincing evidence" standard as the standard for granting an interim order pursuant to Section 11529 of the Government Code, and to this extent the decision of the Court of Appeal in Silva v. Superior Court, (Heerhartz) (March 1993), 14 Cal. App. 4th 562, mod. of opn. on den. rehg. 14 Cal. App. 4th 1678b, rev. den. (1993) _____ Cal. 4th _____, is expressly overturned. It is also the intent of the Legislature that the standard of proof applicable to an accusation filed in connection with a petition for an interim order shall continue to be clear and convincing evidence.

SEC. 59. Section 2.5 of this bill incorporates amendments to Section 146 of the Business and Professions Code proposed by both this bill and SB 574. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1994, (2) each bill amends Section 146 of the Business and Professions Code, and (3) this bill is enacted after SB 574, in which case Sections 2, 2.7, and 2.9 of this bill shall not become operative.

SEC. 60. Section 2.7 of this bill incorporates amendments to Section 146 of the Business and Professions Code proposed by both this bill and AB 1807. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1994, (2) each bill amends Section 146 of the Business and Professions Code, and (3) this bill is enacted after AB 1807, in which case Sections 2, 2.5, and 2.9 of this bill shall not become operative.

SEC. 61. Section 2.9 of this bill incorporates amendments to Section 146 of the Business and Professions Code proposed by this bill, AB 1807, and SB 574. It shall only become operative if (1) all three bills are enacted and become effective on January 1, 1994, (2) each bill amends Section 146 of the Business and Professions Code, and (3) this bill is enacted after AB 1807 and SB 574, in which case Sections 2, 2.5, and 2.7 of this bill shall not become operative.

SEC. 62. Section 45.5 of this bill incorporates amendments to Section 2590 of the Business and Professions Code proposed by this bill and AB 1832. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, (2) each bill amends Section 2590 of the Business and Professions Code, and (3) this bill is enacted after AB 1832, in which case Section 2590 of the Business and Professions Code, as amended by AB 1832, shall remain operative only until the operative date of this bill, at which time Section 45.5 of this bill shall become operative, and Section 45 of this bill shall not become operative. 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. In addition, 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 1268

An act to add Sections 26751 and 41612 to the Government Code, and to amend Section 28 of the Vehicle Code, relating to repossession of vehicles.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 26751 is added to the Government Code, to read:

26751. After possession is taken of any vehicle by or on behalf of any legal owner thereof under the terms of a security agreement or lease agreement, the debtor shall pay the sheriff a fee of fifteen dollars ($15) for the receipt and filing of the report of repossession pursuant to Section 28 of the Vehicle Code before the vehicle may be redeemed by the debtor. Any person in possession of the vehicle shall not release it to the debtor without first obtaining proof of payment of the fee to the sheriff. The proof of payment, or a copy thereof, shall be retained by the party releasing possession to the debtor for the period required by law.

SEC. 2. Section 41612 is added to the Government Code, to read:

41612. After possession is taken of any vehicle by or on behalf of any legal owner thereof under the terms of a security agreement or lease agreement, the debtor shall pay the chief of police or a parking authority operated by a city and county a fee of fifteen dollars ($15) for the receipt and filing of the report of repossession pursuant to Section 28 of the Vehicle Code before the vehicle may be redeemed by the debtor. Any person in possession of the vehicle shall not release it to the debtor without first obtaining proof of payment of the fee to the chief of police or parking authority. The proof of payment, or a copy thereof, shall be retained by the party releasing possession to the debtor for the period required by law.

SEC. 3. Section 28 of the Vehicle Code is amended to read:

28. (a) Whenever possession is taken of any vehicle by or on behalf of any legal owner thereof under the terms of a security agreement or lease agreement, the person taking possession shall immediately notify by the most expeditious means available the city police department where the taking of possession occurred, if within an incorporated city, or the sheriff's department of the county where the taking of possession occurred, if outside an incorporated city, and shall within one business day forward a written notice to the department.

(b) Any person failing to notify the city police department or sheriff's department as required by this section is guilty of an infraction, and shall be fined a minimum of three hundred dollars ($300), and up to five hundred dollars ($500). The district attorney, city attorney, or city prosecutor shall promptly notify the Bureau of Collection and Investigative Services of any conviction resulting from a violation of this section.

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 1269

An act to amend Sections 7501.7, 7502.1, 7504, 7507.9, 7508.2, 7508.4, and 7508.5 of, and to add Section 7510.2 to, the Business and Professions Code, to amend Sections 22005 and 24005 of the Financial Code, to add Sections 26751 and 41612 to the Government Code, and to amend Section 11105 of the Penal Code, relating to repossessors.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 7501.7 of the Business and Professions Code is amended to read:

7501.7. If, upon investigation, the director determines that a licensee, a qualified certificate holder, or a registrant is in violation of Section 7508.1, 7508.2, 7508.3, 7508.4, 7508.5, or 7508.6, the director may issue a citation to the licensee, qualified certificate holder, or registrant. The citation shall be in writing and shall describe with particularity the nature of the violation, including specific references to the provision of law determined to have been violated, and shall be delivered by certified mail to the licensee's, qualified certificate holder's, or registrant's address of record. If the citation is issued to the qualified certificate holder or registrant, a copy of the citation shall also be sent by certified mail to the licensee's address of record. If the director deems it appropriate, the citation may contain an order of abatement fixing a reasonable time for abatement of the violation and may contain assessment of an administrative fine not to exceed two thousand five hundred dollars ($2,500).

A citation or fine assessment shall inform the licensee, qualified certificate holder, or registrant that if he or she desires a hearing to contest the finding of a violation, the hearing shall be requested by written notice to the director within 30 days of the issuance of the citation or assessment, as appropriate. Any request for reconsideration received in writing by the director within the 30 days shall stay the 30 days allowed to request a hearing while the director reconsiders the fine assessment. Upon decision, the director shall notify the licensee, qualified certificate holder, or registrant in writing whether the fine assessment has been withdrawn or the fine assessment has been reaffirmed. If the fine assessment has been reaffirmed, the director shall again inform the licensee, qualified certificate holder, or registrant in writing that he or she has 30 days

to request a hearing. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

If the licensee, qualified certificate holder, or registrant neither requests a hearing nor pays the assessed fine within 30 days of the assessment, the license, qualification certificate, or registration of the person shall not be renewed pursuant to Section 7503.10 and no registration shall be issued pursuant to Article 7 (commencing with Section 7506) until the assessed fine is paid.

Administrative fines collected pursuant to this section shall be deposited in the Private Investigator Fund.

SEC. 2. Section 7502.1 of the Business and Professions Code is amended to read:

7502.1. (a) Any person who violates any provision of this chapter, or who conspires with another person to violate any provision of this chapter, or who knowingly engages a nonexempt unlicensed person to repossess personal property on his or her behalf is guilty of a misdemeanor, and is punishable by a fine of five thousand dollars ($5,000), or by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment.

(b) A proceeding to impose the penalties specified in subdivision (a) may be brought in any court of competent jurisdiction in the name of the people of the State of California by the Attorney General or by any district attorney or city attorney, or with the consent of the district attorney, by the city prosecutor in any city or city and county having a full-time city prosecutor, for the jurisdiction in which the violation occurred. If the action is brought by a district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If the action is 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. If the action is brought by the Attorney General, all of the penalty collected shall be deposited in the Private Investigator Fund.

SEC. 2.5. Section 7504 of the Business and Professions Code is amended to read:

7504. (a) Except as otherwise provided in this chapter, an applicant for a qualification certificate shall comply with all of the following:

(1) Be at least 18 years of age.

(2) Have been, for at least two years of lawful experience, during the five years preceding the date on which his or her application is filed, an employee of a licensed repossession agency within this state, or have had two years of lawful experience in recovering personal property sold under a security agreement within this state. Lawful experience means experience in recovering personal property sold under a security agreement as a registrant pursuant to this chapter

or as a salaried employee of a financial institution or vehicle dealer.

Two years' experience shall consist of not less than 4,000 hours of actual compensated work performed by the applicant preceding the filing of an application.

An applicant shall substantiate the claimed hours of qualifying experience and the exact details as to the character and nature thereof by written certifications from the employer, subject to independent verification by the director as he or she may determine. In the event of inability of an applicant to supply the written certifications from the employer in whole or in part, applicants may offer other written certifications from persons other than employers substantiating employment for consideration by the director.

(3) Complete and forward to the bureau a qualified certificate holder application which shall be on a form prescribed by the director. The application shall be accompanied by two recent photographs of the applicant, of a type prescribed by the director, and two classifiable sets of his or her fingerprints. The residence address, residence telephone number, and driver's license number of each qualified certificate holder or applicant for a qualification certificate, if requested, shall be confidential pursuant to the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code) and shall not be released to the public.

(4) Pass the required examination.

(5) Pay the required application and examination fees to the bureau.

The amendments made to this section during the 1990 portion of the 1989–90 Regular Session shall only apply to applications filed on or after January 1, 1992.

(b) Upon the issuance of the initial qualification certificate or renewal qualification certificate, the bureau shall issue to the certificate holder a suitable pocket identification card which includes a photograph of the certificate holder. The photograph shall be of a size prescribed by the bureau. The card shall contain the name of the licensee with whom the certificate holder is employed.

SEC. 3. Section 7507.9 of the Business and Professions Code is amended to read:

7507.9. If personal effects or other personal property, not covered by a security agreement, are contained in or on personal property at the time it is recovered, the effects shall be removed from the property subject to the security interest, a complete and accurate inventory shall be made, and the personal effects shall be stored in a labeled container by the licensee at the location of the licensed agency as reflected in the records of the bureau for a minimum of 60 days in a secure manner, except those personal effects removed by or in the presence of the registered owner at the time the personal property was being repossessed.

(a) The date and time the inventory is made shall be indicated and shall be signed by the repossession agency employee who

performs the inventory.

(b) The following items of personal effects are items determined to present a danger or health hazard when recovered by the licensee and shall be disposed of in the following manner:

(1) Deadly weapons and dangerous drugs shall be turned over to a local law enforcement agency for retention. These items shall be entered on the inventory and a notation shall be made as to the date and the time and the place the deadly weapon or dangerous drug was turned over to the law enforcement agency, and a receipt from the law enforcement agency shall be maintained in the records of the repossession agency.

(2) Combustibles shall be inventoried and noted as "disposed of, dangerous combustible," and the item shall be disposed of in a reasonable and safe manner.

(3) Food and other health hazard items shall be inventoried and noted as "disposed of, health hazard," and disposed of in a reasonable and safe manner.

(c) Personal effects may be disposed of after being held for at least 60 days. The inventory, and adequate information as to how, when, and to whom the personal effects were disposed of, shall be filed in the permanent records of the licensee.

(d) The inventory shall include the name, address, business hours, and phone number of the person at the repossession agency to contact for recovering the personal effects and an itemization of all personal effect removal and storage charges that will be made by the repossession agency. The inventory shall also include the following statement: "Please be advised that the property listed on this inventory will be disposed of by the repossession agency after being held for 60 days from the date of this notice IF UNCLAIMED."

(e) The inventory shall be provided to a consumer not later than 48 hours after the recovery of personal property, except that if:

(1) The 48-hour period encompasses a Saturday, Sunday, or postal holiday, the inventory shall be provided no later than 72 hours after the recovery of personal property.

(2) The 48-hour period encompasses a Saturday or Sunday and a postal holiday, the inventory shall be provided no later than 96 hours after the recovery of personal property.

(3) Inventory resulting from repossession of a yacht, motor home, or travel trailer is such that it shall take at least four hours to inventory, then the inventory shall be provided no later than 96 hours after the recovery of personal property. When the 96-hour period encompasses a Saturday, Sunday, or postal holiday, the inventory shall be provided no later than 120 hours after the recovery of personal property.

(f) The notice may be given by regular mail addressed to the last known address of the consumer or by personal service at the option of the repossession agency.

SEC. 4. Section 7508.2 of the Business and Professions Code is amended to read:

7508.2. The director may assess administrative fines for any of the following prohibited acts:

(a) Recovering personal property or making any money demand in lieu thereof, including, but not limited to, personal property registered under the Vehicle Code, which has been sold under a security agreement before a signed or telegraphic authorization has been received from the legal owner, lienholder, lessor, or repossession agency acting on behalf of the legal owner, lienholder, or lessor of the personal property. A telephonic assignment is acceptable if the legal owner, lienholder, lessor, or repossession agency acting on behalf of the legal owner, lienholder, or lessor is known to the licensee and a written authorization from the legal owner, lienholder, lessor, or repossession agency acting on behalf of the legal owner, lienholder, or lessor is received by the licensee within 10 working days or a request by the licensee for a written authorization from the legal owner, lienholder, lessor, or repossession agency acting on behalf of the legal owner, lienholder, or lessor is made in writing within 10 working days. Referrals of assignments from one licensee to another licensee are acceptable. The referral of an assignment shall be made under the same terms and conditions as in the original assignment. The fine shall be twenty-five dollars ($25) for each of the first five violations and one hundred dollars ($100) for each violation thereafter, per audit.

(b) Using personal property or personal effects, which have been recovered, for the personal benefit of a licensee, or officer, partner, manager, or employee of a licensee. The fine shall be twenty-five dollars ($25) for the first violation and one hundred dollars ($100) for each violation thereafter. This subdivision does not apply to personal effects disposed of pursuant to subdivision (c) of Section 7507.9.

(c) Selling personal property recovered under the provisions of this chapter, except with written authorization from the legal owner or mortgagee thereof. The fine shall be one hundred dollars ($100) for the first violation and five hundred dollars ($500) for each violation thereafter, per audit.

(d) Failing to remit all money due clients within 10 working days after finalization of the sale of personal property. The licensee shall deposit all money received in the form of cash or negotiable instruments made payable to the licensee for money due clients from the sale of personal property which has been repossessed in a trust account within five working days, and the money shall be withdrawn only for remittance to the client and for the payment of amounts due the licensee. The fine shall be two hundred fifty dollars ($250) for the first violation and one thousand dollars ($1,000) for each violation thereafter. For purposes of this subdivision, "finalization of sale" means the time when the documents of title or ownership which permit transfer of title from the legal owner to the purchaser are received by the repossession agency.

(e) Failing to remit moneys collected in lieu of repossession or redemption to a client within 10 working days after receipt of the

moneys. The fine shall be two hundred fifty dollars ($250) for the first violation and one thousand dollars ($1,000) for each violation thereafter.

(f) Failing to deliver to a client any negotiable instrument received by the licensee made payable to the client within 10 working days of receipt of the negotiable instrument. No licensee, manager, or employee of a licensee shall accept a negotiable instrument made payable to a client unless they have authorization from the client to accept such a negotiable instrument. The fine shall be two hundred fifty dollars ($250) for the first violation and one thousand dollars ($1,000) for each violation thereafter.

(g) Unlawfully entering any private building or secured area without the consent of the owner, or of the person in legal possession thereof, at the time of repossession. The fine shall be five hundred dollars ($500) for each violation.

(h) Committing unlawful assault or battery on another person. The fine shall be five hundred dollars ($500) for each violation.

(i) Falsification or alteration of an inventory. The fine shall be twenty-five dollars ($25) for each violation.

(j) Soliciting from the legal owner the recovery of specific personal property registered under the Vehicle Code or under the motor vehicle licensing laws of other states after the property has been seen or located on a public street or on public or private property without divulging the location of the vehicle. The fine shall be one hundred dollars ($100) for the first violation and two hundred fifty dollars ($250) for each violation thereafter.

SEC. 5. Section 7508.4 of the Business and Professions Code is amended to read:

7508.4. The director may assess administrative fines for any of the following prohibited acts:

(a) Conducting business from any location other than that location to which a license was issued or conducting a business as an individual, partnership, or corporation unless the licensee holds a valid license issued to that exact same individual, partnership, or corporation. The fine shall be one thousand dollars ($1,000) for each violation.

(b) Aiding or abetting an unlicensed repossessor or assigning his or her license. "Assigning his or her license" means that no licensee shall permit an employee or agent in his or her own name to advertise, engage clients, furnish reports, or present bills to clients, or in any manner whatsoever to conduct business for which a license is required under this chapter. The fine shall be one thousand dollars ($1,000) for each violation.

(c) Failing to register employees within 15 days. The fine shall be twenty-five dollars ($25) for each of the first two violations and one hundred dollars ($100) for each violation thereafter, per audit.

(d) Employing a repossessor employee whose registration has expired, been revoked, been denied, been suspended, or been canceled, if the bureau has furnished a listing of such employees to

the licensee. The fine shall be twenty-five dollars ($25) for each violation.

(e) Failing to notify the bureau, within 30 days, of any change in officers. A notice of warning shall be issued for the first violation. Thereafter, the fine shall be twenty-five dollars ($25) for each violation.

(f) Failing to present the debtor with an itemized receipt of payment, if payment is made in lieu of repossession. The fine shall be twenty-five dollars ($25) for the first violation and one hundred dollars ($100) for each violation thereafter.

(g) Failing to submit a notice regarding a violent act within seven days pursuant to Section 7507.6 or to submit a copy of a judgment awarded against the licensee for an amount of more than the then prevailing maximum claim that may be brought in small claims court within seven days pursuant to Section 7507.7. The fine shall be twenty-five dollars ($25) for the first violation and one hundred dollars ($100) per violation thereafter.

(h) Failing to include the licensee's name, address, and license number in any advertisement. A notice of warning shall be issued for the first violation. Thereafter, the fine shall be twenty-five dollars ($25) for each violation.

(i) Failing to maintain personal effects for at least 60 days. The fine shall be twenty-five dollars ($25) for the first violation and one hundred dollars ($100) for each violation thereafter.

(j) Failing to provide a personal property effects list or a notice of seizure within the time limits set forth in Section 7507.9 or 7507.10. The fine shall be twenty-five dollars ($25) for the first violation and one hundred dollars ($100) for each violation thereafter.

(k) Failing to file the required report pursuant to Section 28 of the Vehicle Code. The fine shall be twenty-five dollars ($25) for each of the first five violations and one hundred dollars ($100) for each violation thereafter, per audit.

(*l*) Failing to maintain an accurate record and accounting of secure temporary registration forms. The qualified certificate holder shall be fined twenty-five dollars ($25) for the first violation, one hundred dollars ($100) for the second violation, two hundred fifty dollars ($250) for the third violation, and two hundred fifty dollars ($250) plus a one year suspension of the privilege to issue temporary registrations pursuant to Section 7506.9 for the fourth and subsequent violations.

SEC. 6. Section 7508.5 of the Business and Professions Code is amended to read:

7508.5. The director may assess administrative fines against a repossession agency employee for the following acts, in addition to those imposed pursuant to any other section in this article. The fine shall be twenty-five dollars ($25) for each of the following violations:

(a) Knowingly submit a false report to his or her employer.

(b) Submitting a report to a client without authorization by his or her employer.

(c) Failing to carry a bureau-issued identification card and failing to show that card upon demand to a bureau employee or a law enforcement officer.

(d) Failing to register.

(e) Failing to return his or her registration card to the employer upon termination.

(f) Failing to report a violent act involving the employee to the licensee or the licensee's qualified certificate holder within 24 hours.

SEC. 7. Section 7510.2 is added to the Business and Professions Code, to read:

7510.2. (a) Any licensee, or any officer, partner, employee, or manager of a licensee, who is found by the director to have committed any acts prohibited by Section 7510.1, resulting in revocation of the license, shall dispose of any financial interest in any repossession agency required to be licensed by this act within 90 days of the effective date of the revocation, or at a later date, approved in writing by the director, not to exceed 180 days.

(b) No licensee, or any officer, partner, employee, or manager of a licensee, who is found by the director to have committed any acts prohibited by Section 7510.1, shall, during the period of suspension or revocation, acquire any financial interest in any repossession agency required to be licensed by this act.

(c) The requirements and prohibitions of this section shall also apply to the immediate family of a licensee, or officer, partner, employee, or manager of a licensee.

(d) Any financial interest transferred for the purpose of avoiding the prohibitions of this section shall be deemed a financial interest of the transferor.

(e) As used in this section, "financial interest" includes, but is not limited to, any type of ownership interest, debt, loan, lease, compensation, remuneration, discount, rebate, refund, dividend, distribution, subsidy, or other form of direct or indirect payment, whether in money or otherwise.

(f) As used in this section, "immediate family" includes one's spouse, children, parents, siblings, and spouses of one's children or siblings.

SEC. 8. Section 22005 of the Financial Code is amended to read:

22005. "Charges" do not include any of the following:

(a) Commissions received as a licensed insurance agent or broker in connection with insurance written as provided in Section 22458.

(b) Amounts not in excess of the amounts specified in subdivision (c) of Section 3068 of the Civil Code paid to holders of possessory liens, imposed pursuant to Chapter 6.5 (commencing with Section 3067) of Title 14 of Part 4 of Division 3 of the Civil Code, to release motor vehicles which secure loans subject to this division.

(c) Court costs, excluding attorney's fees, incurred in a suit and recovered against a debtor who defaults on his or her loan.

(d) Fees paid to a licensee for the privilege of participating in an open-end credit program, which fees are to cover administrative

costs and are imposed upon executing the open-end loan agreement and on annual renewal dates or anniversary dates thereafter.

(e) Amounts received by a licensee from a seller, from whom the borrower obtains money, goods, labor, or services on credit, in connection with a transaction under an open-end credit program which are paid or deducted from the loan proceeds paid to the seller at the direction of the borrower and which are an obligation of the seller to the licensee for the privilege of allowing the seller to participate in the licensee's open-end credit program. Amounts received by a licensee from a seller pursuant to this subdivision may not exceed 6 percent of the loan proceeds paid to the seller at the direction of the borrower.

(f) Actual fees not exceeding three hundred dollars ($300) paid in connection with the repossession of a motor vehicle to repossession agencies licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code provided the licensee complies with Sections 22465 and 22465.5.

(g) Moneys paid to, and commissions and benefits received by, a licensee for the sale of goods, services, or insurance, whether or not the sale is in connection with a loan, that the buyer by a separately signed authorization acknowledges is optional, if sale of the goods, services, or insurance has been authorized pursuant to Section 22404.

SEC. 9. Section 24005 of the Financial Code is amended to read:

24005. "Charges" do not include any of the following:

(a) Commissions received as a licensed insurance agent or broker in connection with insurance written as provided in Section 24458.

(b) Amounts not in excess of the amounts specified in subdivision (c) of Section 3068 of the Civil Code paid to holders of possessory liens, imposed pursuant to Chapter 6.5 (commencing with Section 3067) of Title 14 of Part 4 of Division 3 of the Civil Code, to release motor vehicles which secure loans subject to this division.

(c) Court costs, excluding attorney's fees, incurred in a suit and recovered against a debtor who defaults on his or her loan.

(d) Fees paid to a licensee for the privilege of participating in an open-end credit program, which fees are to cover administrative costs and are imposed upon executing the open-end loan agreement and on annual renewal dates or anniversary dates thereafter.

(e) Amounts received by a licensee from a seller, from whom the borrower obtains money, goods, labor, or services on credit, in connection with a transaction under an open-end credit program which are paid or deducted from the loan proceeds paid to the seller at the direction of the borrower and which are an obligation of the seller to the licensee for the privilege of allowing the seller to participate in the licensee's open-end credit program. Amounts received by a licensee from a seller pursuant to this subdivision may not exceed 6 percent of the loan proceeds paid to the seller at the direction of the borrower.

(f) Actual fees not exceeding three hundred dollars ($300) paid in connection with the repossession of a motor vehicle to repossession

agencies licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code provided the licensee complies with Sections 24465 and 24465.5.

(g) Moneys paid to, and commissions and benefits received by, a licensee for the sale of goods, services, or insurance, whether or not the sale is in connection with a loan, that the buyer by a separately signed authorization acknowledges is optional, if sale of the goods, services, or insurance has been authorized pursuant to Section 24404.

SEC. 10. Section 26751 is added to the Government Code, to read:

26751. After possession is taken of any vehicle by or on behalf of any legal owner thereof under the terms of a security agreement or lease agreement, the debtor shall pay the sheriff a fee of fifteen dollars ($15) for the receipt and filing of the report of repossession pursuant to Section 28 of the Vehicle Code before the vehicle may be redeemed by the debtor. Except as provided herein, any person in possession of the vehicle shall not release it to the debtor without first obtaining proof of payment of the fee to the sheriff. At the request of the debtor, a person in possession of the vehicle, or the legal owner, may also release the vehicle to the debtor provided the debtor pays the fifteen dollar ($15) fee, plus an administrative fee not to exceed five dollars ($5), to the person in possession or the legal owner who shall transmit the fifteen dollar ($15) fee to the sheriff within three business days. The failure to transmit the fee within three business days shall subject the responsible party to a fine of fifty dollars ($50). The proof of payment, or a copy thereof, shall be retained by the party releasing possession to the debtor for the period required by law.

SEC. 11. Section 41612 is added to the Government Code, to read:

41612. After possession is taken of any vehicle by or on behalf of any legal owner thereof under the terms of a security agreement or lease agreement, the debtor shall pay the chief of police or a parking authority operated by a city and county a fee of fifteen dollars ($15) for the receipt and filing of the report of repossession pursuant to Section 28 of the Vehicle Code before the vehicle may be redeemed by the debtor. Except as provided herein, any person in possession of the vehicle shall not release it to the debtor without first obtaining proof of payment of the fee to the chief of police or parking authority. At the request of the debtor, a person in possession of the vehicle, or the legal owner, may also release the vehicle to the debtor provided the debtor pays the fifteen dollar ($15) fee, plus an administrative fee not to exceed five dollars ($5), to the person in possession or the legal owner who shall transmit the fifteen dollar ($15) fee to the chief of police or parking authority within three business days. Failure to transmit the fee within three business days shall subject the responsible party to a fine of fifty dollars ($50). The proof of payment, or a copy thereof, shall be retained by the party releasing possession to the debtor for the period required by law.

SEC. 12. Section 11105 of the Penal Code is amended to read:

11105. (a) (1) The Department of Justice shall maintain state

summary criminal history information.

(2) As used in this section:

(i) "State summary criminal history information" means the master record of information compiled by the Attorney General pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, fingerprints, date of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about such person.

(ii) "State summary criminal history information" does not refer to records and data compiled by criminal justice agencies other than the Attorney General, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice.

(b) The Attorney General shall furnish state summary criminal history information to any of the following, when needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, the provisions of Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state as defined in Section 830.1, subdivisions (a), (b), and (f) of Section 830.2, subdivision (a) of Section 830.3, subdivisions (a) and (b) of Section 830.5, and subdivision (a) of Section 830.31.

(3) District attorneys of the state.

(4) Prosecuting city attorneys of any city within the state.

(5) Probation officers of the state.

(6) Parole officers of the state.

(7) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08 of the Penal Code.

(8) A public defender or attorney of record when representing a person in a criminal case and when authorized access by statutory or decisional law.

(9) Any agency, officer, or official of the state when such criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(10) Any city or county, or city and county, or district, or any officer, or official thereof when access is needed in order to assist such agency, officer, or official in fulfilling employment, certification, or licensing duties, and when such access is specifically authorized by the city council, board of supervisors or governing board of the city, county, or district when such criminal history information is required

to implement a statute, ordinance, or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(11) The subject of the state summary criminal history information under procedures established under Article 5 (commencing with Section 11120), Chapter 1, Title 1 of Part 4 of the Penal Code.

(12) Any person or entity when access is expressly authorized by statute when such criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(13) Health officers of a city, county, or city and county, or district, when in the performance of their official duties enforcing Section 3110 of the Health and Safety Code.

(14) Any managing or supervising correctional officer of a county jail or other county correctional facility.

(c) The Attorney General may furnish state summary criminal history information upon a showing of a compelling need to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, the provisions of Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) Any public utility as defined in Section 216 of the Public Utilities Code which operates a nuclear energy facility when access is needed in order to assist in employing persons to work at such facility, provided that, if the Attorney General supplies such data, he or she shall furnish a copy of such data to the person to whom the data relates.

(2) To a peace officer of the state other than those included in subdivision (b).

(3) To a peace officer of another country.

(4) To public officers (other than peace officers) of the United States, other states, or possessions or territories of the United States, provided that access to records similar to state summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States when such information is needed for the performance of their official duties.

(5) To any person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the state summary criminal history information and for purposes of furthering the rehabilitation of the subject.

(6) The courts of the United States, other states or territories or

possessions of the United States.

(7) Peace officers of the United States, other states, or territories or possessions of the United States.

(8) To any individual who is the subject of the record requested when needed in conjunction with an application to enter the United States or any foreign nation.

(9) Any public utility as defined in Section 216 of the Public Utilities Code, when access is needed in order to assist in employing current or prospective employees who in the course of their employment may be seeking entrance to private residences. The information provided shall be limited to the record of convictions and any arrest for which the person is released on bail or on his or her own recognizance pending trial.

If the Attorney General supplies the data pursuant to this paragraph, the Attorney General shall furnish a copy of the data to the current or prospective employee to whom the data relates.

Any information obtained from the state summary criminal history is confidential and the receiving public utility shall not disclose its contents, other than for the purpose for which it was acquired. The state summary criminal history information in the possession of the public utility and all copies made from it shall be destroyed not more than 30 days after employment or promotion or transfer is denied or granted, except for those cases where a current or prospective employee is out on bail or on his or her own recognizance pending trial, in which case the state summary criminal history information and all copies shall be destroyed not more than 30 days after the case is resolved.

A violation of any of the provisions of this paragraph is a misdemeanor, and shall give the current or prospective employee who is injured by the violation a cause of action against the public utility to recover damages proximately caused by the violations. Any public utility's request for state summary criminal history information for purposes of employing current or prospective employees who may be seeking entrance to private residences in the course of their employment shall be deemed a "compelling need" as required to be shown in this subdivision.

Nothing in this section shall be construed as imposing any duty upon public utilities to request state summary criminal history information on any current or prospective employees.

(10) To any campus of the California State University and Colleges or the University of California, or any four-year college or university accredited by a regional accreditation organization approved by the United States Department of Education, when needed in conjunction with an application for admission by a convicted felon to any special education program for convicted felons, including, but not limited to, university alternatives and halfway houses. Only conviction information shall be furnished. The college or university may require the convicted felon to be fingerprinted, and any inquiry to the department under this section

shall include the convicted felon's fingerprints and any other information specified by the department.

(d) Whenever an authorized request for state summary criminal history information pertains to a person whose fingerprints are on file with the Department of Justice and the department has no criminal history of that person, and the information is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying such request for information, if any, may be stamped "no criminal record" and returned to the person or entity making the request.

(e) Whenever state summary criminal history information is furnished as the result of an application and is to be used for employment, licensing or certification purposes, the Department of Justice may charge the person or entity making the request a fee which it determines to be sufficient to reimburse the department for the cost of furnishing such information. In addition, the Department of Justice may add a surcharge to the fee to fund maintenance and improvements to the systems from which the information is obtained. Notwithstanding any other provisions of law, any person or entity required to pay a fee to the department for information received under this section may charge the applicant a fee sufficient to reimburse the person or entity for such expense. All moneys received by the department pursuant to this section, Sections 11105.3 and 12054 of the Penal Code, and Section 13588 of the Education Code shall be deposited in a special account in the General Fund to be available for expenditure by the department to offset costs incurred pursuant to such sections and for maintenance and improvements to the systems from which the information is obtained when appropriated by the Legislature therefor.

(f) Whenever there is a conflict, the processing of criminal fingerprints and fingerprints of applicants for security guard or alarm agent registrations or applicants for repossessor licenses, certificates, or registrations, or firearms qualification permits submitted pursuant to Section 7514 of the Business and Professions Code shall take priority over the processing of applicant fingerprints.

(g) It is not a violation of this section to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(h) It is not a violation of this section to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record when the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

(i) Notwithstanding any other provision of law, the Department of Justice or any state or local law enforcement agency may require the submission of fingerprints for the purpose of conducting summary criminal history information checks which are authorized by law.

SEC. 13. 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 1270

An act to amend Sections 11101, 11105, and 11106.1 of, to amend the heading of Article 3.5 (commencing with Section 11112.1) of Chapter 1 of Title 1 of Part 4 of, and to add Section 11113 to, the Penal Code, relating to criminal records.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

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

(a) The photograph files at some police and sheriff's departments are expensive and difficult to maintain and untimely if copies are urgently needed by other law enforcement agencies.

(b) The criminal justice agencies of this state do not have a statewide system to retain, identify, and communicate criminal photographs.

(c) This act is intended to assure the creation of a statewide automated system (Cal-Photo) for the storing and communication of law enforcement related photographs after the Department of Justice completes a feasibility study as specified in Section 11113 of the Penal Code and a report to the Legislature concerning the study as specified in Section 1113.1 of the Penal Code.

SEC. 2. Section 11101 of the Penal Code is amended to read:

11101. The Attorney General shall procure from any available source, and file for record and report in the office of the bureau, all descriptions, information, photographs, and measurements of all persons convicted of a felony, or imprisoned for violating any of the military, naval, or criminal laws of the United States, and of all well-known and habitual criminals.

SEC. 3. Section 11105 of the Penal Code is amended to read:

11105. (a) (1) The Department of Justice shall maintain state summary criminal history information.

(2) As used in this section:

(i) "State summary criminal history information" means the

master record of information compiled by the Attorney General pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, fingerprints, photographs, date of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about the person.

(ii) "State summary criminal history information" does not refer to records and data compiled by criminal justice agencies other than the Attorney General, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice.

(b) The Attorney General shall furnish state summary criminal history information to any of the following, if needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state as defined in Section 830.1, subdivisions (a), (b), and (f) of Section 830.2, subdivision (a) of Section 830.3, subdivisions (a) and (b) of Section 830.5, and subdivision (a) of Section 830.31.

(3) District attorneys of the state.

(4) Prosecuting city attorneys of any city within the state.

(5) Probation officers of the state.

(6) Parole officers of the state.

(7) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08.

(8) A public defender or attorney of record when representing a person in a criminal case and if authorized access by statutory or decisional law.

(9) Any agency, officer, or official of the state if the criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct.

(10) Any city or county, or city and county, or district, or any officer, or official thereof if access is needed in order to assist that agency, officer, or official in fulfilling employment, certification, or licensing duties, and if the access is specifically authorized by the city council, board of supervisors, or governing board of the city, county, or district if the criminal history information is required to implement a statute, ordinance, or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal

conduct.

(11) The subject of the state summary criminal history information under procedures established under Article 5 (commencing with Section 11120), Chapter 1, Title 1 of Part 4.

(12) Any person or entity when access is expressly authorized by statute if the criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct.

(13) Health officers of a city, county, or city and county, or district, when in the performance of their official duties enforcing Section 3110 of the Health and Safety Code.

(14) Any managing or supervising correctional officer of a county jail or other county correctional facility.

(c) The Attorney General may furnish state summary criminal history information upon a showing of a compelling need to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) Any public utility as defined in Section 216 of the Public Utilities Code that operates a nuclear energy facility when access is needed in order to assist in employing persons to work at the facility, provided that, if the Attorney General supplies the data, he or she shall furnish a copy of the data to the person to whom the data relates.

(2) To a peace officer of the state other than those included in subdivision (b).

(3) To a peace officer of another country.

(4) To public officers (other than peace officers) of the United States, other states, or possessions or territories of the United States, provided that access to records similar to state summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States if the information is needed for the performance of their official duties.

(5) To any person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the state summary criminal history information and for purposes of furthering the rehabilitation of the subject.

(6) The courts of the United States, other states or territories or possessions of the United States.

(7) Peace officers of the United States, other states, or territories or possessions of the United States.

(8) To any individual who is the subject of the record requested if needed in conjunction with an application to enter the United

States or any foreign nation.

(9) Any public utility as defined in Section 216 of the Public Utilities Code, if access is needed in order to assist in employing current or prospective employees who in the course of their employment may be seeking entrance to private residences. The information provided shall be limited to the record of convictions and any arrest for which the person is released on bail or on his or her own recognizance pending trial.

If the Attorney General supplies the data pursuant to this paragraph, the Attorney General shall furnish a copy of the data to the current or prospective employee to whom the data relates.

Any information obtained from the state summary criminal history is confidential and the receiving public utility shall not disclose its contents, other than for the purpose for which it was acquired. The state summary criminal history information in the possession of the public utility and all copies made from it shall be destroyed not more than 30 days after employment or promotion or transfer is denied or granted, except for those cases where a current or prospective employee is out on bail or on his or her own recognizance pending trial, in which case the state summary criminal history information and all copies shall be destroyed not more than 30 days after the case is resolved.

A violation of this paragraph is a misdemeanor, and shall give the current or prospective employee who is injured by the violation a cause of action against the public utility to recover damages proximately caused by the violations. Any public utility's request for state summary criminal history information for purposes of employing current or prospective employees who may be seeking entrance to private residences in the course of their employment shall be deemed a "compelling need" as required to be shown in this subdivision.

Nothing in this section shall be construed as imposing any duty upon public utilities to request state summary criminal history information on any current or prospective employees.

(10) To any campus of the California State University or the University of California, or any four-year college or university accredited by a regional accreditation organization approved by the United States Department of Education, if needed in conjunction with an application for admission by a convicted felon to any special education program for convicted felons, including, but not limited to, university alternatives and halfway houses. Only conviction information shall be furnished. The college or university may require the convicted felon to be fingerprinted, and any inquiry to the department under this section shall include the convicted felon's fingerprints and any other information specified by the department.

(d) Whenever an authorized request for state summary criminal history information pertains to a person whose fingerprints are on file with the Department of Justice and the department has no criminal history of that person, and the information is to be used for

employment, licensing, or certification purposes, the fingerprint card accompanying the request for information, if any, may be stamped "no criminal record" and returned to the person or entity making the request.

(e) Whenever state summary criminal history information is furnished as the result of an application and is to be used for employment, licensing, or certification purposes, the Department of Justice may charge the person or entity making the request a fee that it determines to be sufficient to reimburse the department for the cost of furnishing the information. In addition, the Department of Justice may add a surcharge to the fee to fund maintenance and improvements to the systems from which the information is obtained. Notwithstanding any other law, any person or entity required to pay a fee to the department for information received under this section may charge the applicant a fee sufficient to reimburse the person or entity for this expense. All moneys received by the department pursuant to this section, Sections 11105.3 and 12054 of the Penal Code, and Section 13588 of the Education Code shall be deposited in a special account in the General Fund to be available for expenditure by the department to offset costs incurred pursuant to those sections and for maintenance and improvements to the systems from which the information is obtained upon appropriation by the Legislature.

(f) Whenever there is a conflict, the processing of criminal fingerprints and fingerprints of applicants for security guard or alarm agent registrations or firearms qualification permits submitted pursuant to Section 7514 of the Business and Professions Code shall take priority over the processing of applicant fingerprints.

(g) It is not a violation of this section to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(h) It is not a violation of this section to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record if the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

(i) Notwithstanding any other law, the Department of Justice or any state or local law enforcement agency may require the submission of fingerprints for the purpose of conducting summary criminal history information checks that are authorized by law.

SEC. 4. Section 11106.1 of the Penal Code is amended to read:

11106.1. Any system of microphotography, optical disk, or reproduction by other techniques that do not permit additions, deletions, or changes to the original document, may be used by the Department of Justice as a photographic reproduction process to record some or all instruments, papers, photographs, and notices that are required or permitted by law to be recorded or filed. All storage medium shall comply with minimum standards of quality approved by the National Institute of Standards and Technology.

SEC. 5. The heading of Article 3.5 (commencing with Section 11112.1) of Chapter 1 of Title 1 of Part 4 of the Penal Code is amended to read:

Article 3.5. Fingerprints and Photographs

SEC. 6. Section 11113 is added to the Penal Code, to read:

11113. The Attorney General shall perform a feasibility study of automated systems for storing and communicating law enforcement related photographs on or before January 1, 1995, and shall complete a study report to the Legislature on or before January 1, 1996.

SEC. 7. Section 11113, as added to the Penal Code by this act, shall be funded from moneys appropriated by the Legislature in the Budget Act of 1994 or from existing resources of the Department of Justice other than fees collected pursuant to subdivision (e) of Section 11105.

CHAPTER 1271

An act to add and repeal Chapter 3.7 (commencing with Section 8650) of Part 6 of, and to add and repeal Section 69613.3 of, the Education Code, relating to teachers, and making an appropriation therefor.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Chapter 3.7 (commencing with Section 8650) is added to Part 6 of the Education Code, to read:

CHAPTER 3.7. SCIENCE, MATHEMATICS, AND TECHNOLOGY TEACHER PIPELINE PROGRAM

8650. (a) The Legislature finds and declares that there is a growing shortage of elementary and secondary teachers and postsecondary faculty in mathematics, science, and technology, particularly of teachers from groups traditionally underrepresented in those subject areas.

(b) It is the intent of the Legislature, in enacting this chapter, to prepare and employ traditionally underrepresented students and adults desirous of career changes as teachers of science, mathematics, and technology, through early identification, support, and assistance throughout the educational pipeline.

8651. (a) There is hereby established the Science, Mathematics, and Technology Teacher Pipeline Program to identify, support, and assist elementary, secondary, and postsecondary students with

potential to become teachers of science, mathematics, or technology, particularly those who are from groups underrepresented in those subject areas. Priority consideration for participation in the program at the elementary and secondary level shall be afforded to pupils participating in the Mathematics, Engineering, and Science Achievement program (MESA) specified in Chapter 3.5 (commencing with Section 8600).

(b) The components of the program shall include all of the following:

(1) Saturday academies to augment regular classroom instruction and counseling for elementary and secondary school pupils. The interagency agreement described in Section 8653 shall include the provision of instructors for such an academy by at least one of the participating schools or institutions. School districts may report average daily attendance generated by pupils in the Saturday academies for purposes of summer school apportionments pursuant to Section 42239.5.

(2) Academic tutoring and mentoring for school and college student participants by program mentors pursuant to Section 8654 and, on a volunteer basis, by teachers, postsecondary faculty, and advanced program participants.

(3) Summer activities to strengthen the preparation and motivation of elementary, secondary, and postsecondary students. School districts may report average daily attendance generated by pupils in academic summer programs that are otherwise compensable as summer school course work for purposes of summer school apportionments pursuant to Section 42239.

(4) Incentives to encourage underrepresented students to pursue teaching in science, mathematics, and technology through the assumption of student loan obligations pursuant to Section 69613.3.

(5) The development of a cadre of high school graduates, maintenance of contact with them through their college matriculation wherever it occurs, assistance with their teacher credentialing process or advanced degree acquisition, and facilitation of their increased contact with school and college administrators leading towards employment as members of their faculties. Special emphasis will be placed on identifying and tracking science, mathematics, and technology majors in universities across the nation where underrepresented minority students are enrolled in significant numbers.

(6) Assistance to school districts and colleges and universities in identifying potential teachers who are program participants. The Superintendent of Public Instruction shall disseminate to each school district in this state a list furnished by the California Postsecondary Education Commission of program participants who are available for entry into teaching or in advanced stages of completing the requirements necessary to earn a teaching credential. The commission shall disseminate to this state's colleges and universities a list of program participants who have completed the necessary

requirements to teach at the postsecondary level.

(7) Recommendation to the Commission on Teacher Credentialing of alternative methods for entry into the teaching profession, including methods targeted for underrepresented persons seeking new career opportunities as a result of military reductions or economic conditions, for example, the Military Alternative Teacher Credential Hiring (MATCH) program operated through a consortium of school districts in the Sacramento area.

(8) Professional development activities to update current teachers and faculty on new science, mathematics, and technology instructional strategies, with particular emphasis on teaching in a multicultural environment.

8652. The program shall be administered by the California Postsecondary Education Commission. It is the intent of the Legislature that the commission articulate the development and operation of the program with other programs with related objectives, including, but not limited to, the Mathematics, Engineering, and Science Achievement Program, the Beginning Teacher Assessment and Support Program, the California Academic Partnership Program, and the California Student Opportunity and Access Program.

8653. (a) The program shall operate through project centers that offer a program with the components specified in Section 8651. Each project center shall be proposed and operated through a consortium that may include at least one secondary or unified school district or county office of education, one or more community colleges, and one institution of postsecondary education that operates a program of teacher preparation approved by the Commission on Teacher Credentialing. Each participating school and postsecondary institution shall enter into an interagency agreement that sets forth the programmatic, operational, and funding parameters of the center.

(b) The commission may apportion, on a competitive basis, funds for the support of project centers proposed pursuant to subdivision (a) from funds that may be appropriated to the commission for that purpose. It is the intent of the Legislature that funding provided pursuant to this article be replaced by nonstate federal and private fund sources. It is further the intent of the Legislature that funds appropriated pursuant to this section be used by the commission on a revolving basis to establish pilot project centers throughout California. The commission may issue temporary planning grants for the purpose of enabling members of a proposed consortium, described in subdivision (a), to develop the programmatic and operational aspects of that consortium's project center bid proposal.

(c) Each consortium that receives funding to operate a project center shall provide matching funds from existing funds received from federal, state, local, or private sources.

(d) The commission may expend up to 5 percent of the funds

appropriated to support pipeline project centers for the purpose of administering the apportionment of these funds.

8654. (a) Project centers shall rely primarily on pipeline mentors to provide support activities, including tutoring and mentorship, for participants.

(b) Any undergraduate or graduate student enrolled at least one-half time in a public or private college or university in the state is eligible for selection as a mentor.

(c) It is the intent of the Legislature that the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Community Colleges, the Board of Directors of the Hastings College of the Law, the Board of Governors of the California Maritime Academy, and private postsecondary educational institutions consider granting credit to mentors for their service learning experience.

(d) A mentor may be employed or utilized as a volunteer by a school district as an instructional aide pursuant to Article 7 (commencing with Section 45340) of Chapter 5 of Part 25 or as a teacher aide pursuant to Article 8 (commencing with Section 45360) of Chapter 5 of Part 25. A mentor is eligible to participate in the California State Work-Study Program established pursuant to Article 18 (commencing with Section 69950) of Chapter 2 of Part 42 if he or she is compensated by the school district or project center and meets all other eligibility criteria of the California State Work-Study Program.

(e) Each campus of the University of California, the California State University, and the California Community Colleges may provide supplemental compensation to mentors eligible for the federal work-study program using funds authorized under Subpart 3 (commencing with Section 1070c) of Part A of Subchapter IV of Chapter 28 of Title 20 of, or Part C (commencing with Section 2751) of Subchapter I of Chapter 34 of Title 42 of, the United States Code. A mentor shall be eligible for supplemental compensation assistance only if he or she is providing mentorship service for program participants pursuant to federal rules and regulations.

(f) The completion of one or more years of service as a mentor shall be deemed to satisfy the community service goal described in Section 99101 for an equivalent period of time.

8655. (a) The commission shall submit to the Legislature, not later than January 1, 1999, a comprehensive evaluation and outcomes assessment of the program specified in this chapter.

(b) This chapter shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2001, deletes or extends that date.

SEC. 2. Section 69613.3 is added to the Education Code, to read:

69613.3. (a) Notwithstanding Section 69614, the commission may annually distribute 50 warrants to project centers of the Science, Mathematics, and Technology Teacher Pipeline Program specified in Chapter 3.7 (commencing with Section 8650) of Part 6 to be

awarded to participants in that program who meet the eligibility criteria set forth in subdivisions (a), (b), and (c) of Section 69613.

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

SEC. 3. The sum of one hundred twenty-five thousand dollars ($125,000) is hereby appropriated from the General Fund, without regard to fiscal year, to the California Postsecondary Education Commission for five grants in the amount of up to twenty-five thousand dollars ($25,000) each. Each grant shall be used for program planning or implementation.

CHAPTER 1272

An act to add and repeal Chapter 11 (commencing with Section 15399.45) of Part 6.7 of Division 3 of Title 2 of the Government Code, relating to supercomputer centers.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Chapter 11 (commencing with Section 15399.45) is added to Part 6.7 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 11. SUPERCOMPUTER CENTER

15399.45. Based on recommendations contained in the study required by former Section 15399.41, as added by Chapter 1558 of the Statutes of 1988, an additional supercomputer center shall be established in the Silicon Valley in coordination with the San Diego Supercomputer Center through a grant agreement executed with the University of California at San Diego. It is the intent of the Legislature that the sum of two million dollars ($2,000,000) be appropriated in the annual Budget Act during fiscal years 1994–95, 1995–96, and 1996–97 to the Trade and Commerce Agency for the purpose of establishing the Silicon Valley supercomputer center.

15399.47. (a) This chapter shall become operative on July 1, 1994.

(b) This chapter 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. 2. The Legislature finds and declares that the new supercomputer center will promote economic development in this state and is an appropriate use of moneys in the California Unitary Fund.

CHAPTER 1273

An act relating to economic development, and making an appropriation therefor.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. The sum of seventy-six thousand dollars ($76,000) is appropriated from the General Fund to the Trade and Commerce Agency to contract with the California Southern Small Business Development Corporation for the establishment of a Small Business Development Corporation Expansion Center in the Inland Empire (San Bernardino and Riverside Counties), to serve San Bernardino and Riverside Counties.

CHAPTER 1274

An act to amend Section 709 of, and to add Section 882 to, the Public Utilities Code, relating to public utilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. The Legislature finds and declares:

(a) A ubiquitous state-of-the-art communications infrastructure can encourage significant economic growth and employment, and provide social benefits to all Californians. Such a network, or networks, can position California businesses as strong competitors in national and international markets.

(b) Significant investment in communications infrastructure can play a key role in improved delivery of education and health care. It can also relieve transportation problems, provide for job retention and creation, and improve the quality of life through telecommuting and improved access to information.

(c) Given the current economic climate and the potential contribution to economic development, it is appropriate to give greater emphasis to the development of an enhanced communications infrastructure for the purpose of achieving the many social and economic benefits that will result from advanced communications networks and technologies made available by a variety of providers. In the pursuit of that development, policymakers must always be mindful of California's longstanding

commitment to universal service.

(d) The Public Utilities Commission has conducted an investigation into the status of California's communications infrastructure, including an analysis of customer needs.

SEC. 2. Section 709 of the Public Utilities Code is amended to read:

709. The Legislature hereby finds and declares that the policies for telecommunications in California are as follows:

(a) To continue our universal service commitment by assuring the continued affordability and widespread availability of high-quality telecommunications service to all Californians.

(b) To encourage the development and deployment of new technologies and the equitable provision of services in a way which efficiently meets consumer need and encourages the ubiquitous availability of a wide choice of state-of-the-art services.

(c) To promote economic growth, job creation, and the substantial social benefits that will result from the rapid implementation of advanced information and communications technologies by assuring adequate long-term investment in the necessary infrastructure.

SEC. 3. Section 882 is added to the Public Utilities Code, to read:

882. (a) The Public Utilities Commission shall, as soon as practicable, open a proceeding or proceedings to, or as part of existing proceedings shall, consider ways to ensure that advanced telecommunications services are made available as ubiquitously and economically as possible, in a timely fashion, to California's citizens, institutions, and businesses. The proceeding or proceedings should be completed within one year of commencement.

(b) The proceeding or proceedings shall develop rules, procedures, orders, or strategies, or all of these, that seek to achieve the following goals:

(1) To provide all citizens and businesses with access to the widest possible array of advanced communications services.

(2) To provide the state's educational and health care institutions with access to advanced communications services.

(3) To ensure cost-effective deployment of technology so as to protect ratepayers' interests and the affordability of telecommunications services.

(c) In the proceeding or proceedings, the commission should also consider, but need not limit its consideration to, all of the following:

(1) Whether the definition of universal service should be broadened.

(2) How to encourage the timely and economic development of an advanced public communications infrastructure, which may include a variety of competitive providers.

(d) The commission shall issue a report or order, or reports or orders, providing for specific action in regard to the issues set forth in this section. It is the commission's goal to issue its report or order, or reports or orders, on or before January 1, 1995.

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 the Public Utilities Commission may open proceedings to ensure that advanced telecommunications services are made available to California's citizens at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1275

An act to add Section 1812.5095 to the Civil Code, and to amend Section 629 of, and to add Sections 687.2 and 13005.7 to, the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 1812.5095 is added to the Civil Code, to read:

1812.5095. (a) An employment agency, as defined in paragraph (3) of subdivision (a) or subdivision (h) of Section 1812.501 is not the employer of a domestic worker for whom it procures, offers, refers, provides, or attempts to provide work, if all of the following factors characterize the nature of the relationship between the employment agency and the domestic worker for whom the agency procures, offers, refers, provides, or attempts to provide domestic work:

(1) There is a signed contract or agreement between the employment agency and the domestic worker that contains, at a minimum, provisions that specify all of the following:

(A) That the employment agency shall assist the domestic worker in securing work.

(B) How the employment agency's referral fee shall be paid.

(C) That the domestic worker is free to sign an agreement with other employment agencies and to perform domestic work for persons not referred by the employment agency.

(2) The domestic worker informs the employment agency of any restrictions on hours, location, conditions, or type of work he or she will accept and the domestic worker is free to select or reject any work opportunity procured, offered, referred, or provided by the employment agency.

(3) The domestic worker is free to renegotiate with the person hiring him or her the amount proposed to be paid for the work.

(4) The domestic worker does not receive any training from the employment agency with respect to the performance of domestic work. However, an employment agency may provide a voluntary

orientation session in which the relationship between the employment agency and the domestic worker, including the employment agency's administrative and operating procedures, and the provisions of the contract or agreement between the employment agency and the domestic worker are explained.

(5) The domestic worker performs domestic work without any direction, control, or supervision exercised by the employment agency with respect to the manner and means of performing the domestic work. An employment agency shall not be deemed to be exercising direction, control, or supervision when it takes any of the following actions:

(A) Informs the domestic worker about the services to be provided and the conditions of work specified by the person seeking to hire a domestic worker.

(B) Contacts the person who has hired the domestic worker to determine whether that person is satisfied with the agency's referral service.

(C) Informs the domestic worker of the time during which new referrals are available.

(D) Requests the domestic worker to inform the employment agency if the domestic worker is unable to perform the work accepted.

(6) The employment agency does not provide tools, supplies, or equipment necessary to perform the domestic work.

(7) The domestic worker is not obligated to pay the employment agency's referral fee, and the employment agency is not obligated to pay the domestic worker if the person for whom the services were performed fails or refuses to pay for the domestic work.

(8) Payments for domestic services are made directly to either the domestic worker or to the employment agency. Payments made directly to the employment agency shall be deposited into a trust account until payment can be made to the domestic worker.

(9) The relationship between a domestic worker and the person for whom the domestic worker performs services may only be terminated by either of those parties and not by the employment agency that referred the domestic worker. However, an employment agency may decline to make additional referrals to a particular domestic worker, and the domestic worker may decline to accept a particular referral.

(b) The fee charged by an employment agency for its services shall be reasonable, negotiable, and based on a fixed percentage of the job cost.

(c) An employment agency referring or placing a domestic worker in a job shall inform that domestic worker, in writing, that the domestic worker may be obligated to obtain business permits or licenses, where required by any state or local law, ordinance, or regulation, and that he or she is not eligible for unemployment insurance, state disability insurance, or workers' compensation benefits through an employment agency complying with subdivision

(a). The employment agency referring a domestic worker shall also inform that domestic worker, if the domestic worker is self-employed, that he or she is required to pay self-employment, state, and federal taxes.

(d) An employment agency referring or placing a domestic worker in a job shall orally communicate to the person seeking to hire the domestic worker the disclosure set forth below prior to the referral of the domestic worker and shall communicate in writing the following disclosure statement:

"(name of agency) is not the employer of the domestic worker it referred to you. Depending on your arrangement with the domestic worker, you may have employer responsibilities."

The preceding statement shall be printed in not less than 10-point type and shall be mailed to the person seeking domestic services within three business days after the employment agency refers a domestic worker to that person.

(e) Every employment agency referring or placing a domestic worker in a job and who is not the employer of the domestic worker being referred or placed, shall in any telephone directory advertisement placed by such an employment agency, on or after January 1, 1994, insert the following statement, in no less than 6-point type which shall be in print which contrasts with the background of the advertisement so as to be easily legible:

"(Name of agency)" is a referral agency."

SEC. 2. Section 629 of the Unemployment Insurance Code is amended to read:

629. (a) "Employment" does not include domestic service in a private home, except that "employment" includes domestic service in a private home if performed for an employing unit or a person who paid in cash remuneration of one thousand dollars ($1,000) or more to individuals employed in the domestic service in any calendar quarter in the calendar year or the preceding calendar year.

(b) For purposes of subdivision (a), "employment" does not include work performed by a domestic worker for whom an employment agency, as defined in paragraph (3) of subdivision (a) or subdivision (h) of Section 1812.501 of the Civil Code, procures, offers, refers, provides, or attempts to provide domestic work in a private home, if all of the factors set forth in Section 687.2 characterize the nature of the relationship between the employment agency and the domestic worker for whom the agency procures, offers, refers, provides, or attempts to provide domestic work.

SEC. 3. Section 687.2 is added to the Unemployment Insurance Code, to read:

687.2. Notwithstanding any other provision of law, an employment agency, as defined in paragraph (3) of subdivision (a) or subdivision (h) of Section 1812.501 of the Civil Code, shall not be deemed to be the employer of the domestic workers for whom it procures, offers, refers, provides, or attempts to provide work if all of the following factors exist:

(a) There is a signed contract or agreement between the employment agency and the domestic worker that contains, at a minimum, provisions that specify all of the following:

(1) That the employment agency shall assist the domestic worker in securing work.

(2) How the employment agency's referral fee shall be paid.

(3) That the domestic worker is free to sign an agreement with other employment agencies and to perform domestic work for persons not referred by the employment agency.

(b) The domestic worker informs the employment agency of any restrictions on hours, location, conditions, or type of work he or she will accept and the domestic worker is free to select or reject any work opportunity procured, offered, referred, or provided by the employment agency.

(c) The domestic worker is free to renegotiate with the person hiring him or her the amount proposed to be paid for the work.

(d) The domestic worker does not receive any training from the employment agency with respect to the performance of domestic work. However, an employment agency may provide a voluntary orientation session in which the relationship between the employment agency and the domestic worker, including the employment agency's administrative and operating procedures, and the provisions of the contract or agreement between the employment agency and the domestic worker are explained.

(e) The domestic worker performs domestic work without any direction, control, or supervision exercised by the employment agency with respect to the manner and means of performing the domestic work.

The following actions exercised by an employment agency shall not be considered to be the exercise of direction, control, or supervision:

(1) Informing the domestic worker about the services to be provided and the conditions of work specified by the person seeking to hire a domestic worker.

(2) Contacting the person who has hired the domestic worker to determine whether that person is satisfied with the agency's referral service. This contact shall not be used to identify improvements needed in a worker's performance and to then discipline or train the worker regarding the performance of domestic work.

(3) Informing the domestic worker of the time during which new referrals are available.

(4) Requesting the domestic worker to inform the employment agency if the domestic worker is unable to perform the work accepted.

(f) The employment agency does not provide tools, supplies, or equipment necessary to perform the domestic work.

(g) The domestic worker is not obligated to pay the employment agency's referral fee, and the employment agency is not obligated to pay the domestic worker if the person for whom the services were

performed fails or refuses to pay for the domestic work.

(h) Payments for domestic services are made directly to either the domestic worker or to the employment agency. Payments made directly to the employment agency shall be deposited into a trust account until payment can be made to the domestic worker. Payments made to the domestic worker by the employment agency shall not be paid from any of the employment agency's business accounts.

(i) The relationship between a domestic worker and the person for whom the domestic worker performs services may only be terminated by either of those parties and not by the employment agency that referred the domestic worker. However, an employment agency may decline to make additional referrals to a particular domestic worker, and the domestic worker may decline to accept a particular referral.

SEC. 4. Section 13005.7 is added to the Unemployment Insurance Code, to read:

13005.7. An employment agency, as defined in paragraph (3) of subdivision (a) or (h) of Section 1812.501 of the Civil Code shall not be deemed the employer of the domestic worker for whom it procures, offers, refers, provides, or attempts to provide work if all of the factors set forth in Section 687.2 exist.

SEC. 5. This act is intended to clarify existing law and to resolve the dispute between domestic employment agencies and the Employment Development Department regarding the proper interpretation and application of relevant provisions of the Unemployment Insurance Code, the Employment Agency, Employment Counseling, and Job Listing Services Act with respect to the characterization of domestic employment agencies as agents and not employers of the domestic workers they refer.

SEC. 6. (a) It is the intent of the Legislature in adding subdivisions (b) and (c) to this section, and Section 687.2 to the Unemployment Insurance Code, relating to the factors used to determine the relationship between employment agencies and the domestic workers they refer, to relieve employment agencies from hardships resulting from audits conducted prior to the clarification of the law governing employment agencies made by this act.

(b) Except as provided in subdivision (c), on or before January 1, 1994, the Employment Development Department shall, with respect to the period of time ending on or before January 1, 1994, do both of the following:

(1) Abate any pending audit or investigation based on any determination concerning the relationship between a domestic worker and an employment agency.

(2) Abate any unpaid assessment that is not final pursuant to Section 1224 of the Unemployment Insurance Code on or before January 1, 1994 that was assessed based on any determination concerning the relationship between a domestic worker and a domestic employment agency.

(c) Subdivision (b) shall not apply to any employment agency with respect to any audit, investigation, or assessment that was commenced prior to January 1, 1994, involving any determination concerning the relationship between the employment agency and a domestic worker, if the agency engaged, as standard procedure, in all of the following practices:

(1) Established the rate of pay for its domestic workers, except for any communication with a domestic worker regarding the amount to be paid for a specific job.

(2) Prohibited the domestic worker from renegotiating the amount proposed to be paid for the job with the person hiring the domestic worker.

(3) Guaranteed, either by an oral or written agreement, to pay for the domestic worker's services from the domestic employment agency's business account, regardless of whether the person for whom the services were provided rendered payment to the domestic worker.

(4) Exercised direction and control over the manner and means by which the domestic worker performed the domestic services. For purposes of this paragraph, the following actions exercised by an employment agency shall not be considered to be the exercise of direction, control, or supervision:

(A) Informing the domestic worker of the services to be provided and conditions of work specified by the person for whom the services are provided.

(B) Contacting the person who hired the domestic worker to determine whether that person is satisfied with the agency's referral service. This contact shall not be used to identify improvements needed in the worker's performance and to then discipline or train the worker regarding the performance of domestic work.

(C) Informing the domestic worker of the time during which new referrals are available.

(D) Requesting the domestic worker to inform the employment agency if the domestic worker will not perform the domestic work.

(E) Providing informational brochures containing domestic service tips without requiring performance in accordance with the information.

(5) Initiated the termination of any domestic worker, but not including the failure to make referrals of work to a particular domestic worker.

(d) Any audit, investigation, or assessment that is initiated or levied on or after January 1, 1994, shall be conducted in accordance with the factors set out in Section 687.2 of the Unemployment Insurance Code, and shall examine those employment relationships only as they exist on or after January 1, 1994.

CHAPTER 1276

An act to add and repeal Section 740.7 of the Public Utilities Code, relating to public utilities.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 740.7 is added to the Public Utilities Code, to read:

740.7. (a) The commission may allow public utilities to provide utility service at whatever discounted rate is presently available in enterprise zones, to facilities located on all federal military bases that are scheduled to be closed.

(b) For purposes of this section, "facilities" means businesses that the commission determines will continue in existence after closure of the military base, or continuing or new businesses that will engage in transition activities as described in a reuse plan adopted by the appropriate local jurisdiction.

(c) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1999, deletes or extends that date.

CHAPTER 1277

An act to amend Sections 798.76 and 799.5 of the Civil Code, and to amend Sections 12927, 12955, 12955.1, 12955.6, 12980, 12981, 12989, 12989.2, 12993, and 12995 of, and to add Sections 12955.7, 12955.8, 12955.9, 12981.1, and 12987.1 to, the Government Code, relating to fair housing.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 798.76 of the Civil Code is amended to read:

798.76. The management may require that a prospective purchaser comply with any rule or regulation limiting residency based on age requirements for housing for older persons, provided that the rule or regulation complies with the federal Fair Housing Amendments Act of 1988 (P.L. 100-430) and implementing regulations.

SEC. 2. Section 799.5 of the Civil Code is amended to read:

799.5. The ownership or management may require that a purchaser of a mobilehome that will remain in the subdivision,

cooperative, or condominium for mobilehomes, comply with any rule or regulation limiting residency based on age requirements for housing for older persons, provided that the rule or regulation complies with the provisions of the federal Fair Housing Amendments Act of 1988 (P.L. 100-430) and implementing regulations.

SEC. 3. Section 12927 of the Government Code is amended to read:

12927. As used in this part in connection with housing accommodations, unless a different meaning clearly appears from the context:

(a) "Affirmative actions" means any activity for the purpose of eliminating discrimination in housing accommodations because of race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability.

(b) "Conciliation council" means a nonprofit organization, or a city or county human relations commission, which provides education, factfinding, and mediation or conciliation services in resolution of complaints of housing discrimination.

(c) "Discrimination" includes refusal to sell, rent, or lease housing accommodations; includes refusal to negotiate for the sale, rental, or lease of housing accommodations; includes representation that a housing accommodation is not available for inspection, sale, or rental when that housing accommodation is in fact so available; includes any other denial or withholding of housing accommodations; includes provision of inferior terms, conditions, privileges, facilities, or services in connection with those housing accommodations; includes the cancellation or termination of a sale or rental agreement; includes the provision of segregated or separated housing accommodations; includes the refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by the disabled person, if the modifications may be necessary to afford the disabled person full enjoyment of the premises, except that, in the case of a rental, the landlord may, where it is reasonable to do so condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification (other than for reasonable wear and tear), and includes refusal to make reasonable accommodations in rules, policies, practices, or services when these accommodations may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling. The term "discrimination" does not include refusal to rent or lease a portion of an owner-occupied single-family house to a person as a roomer or boarder living within the household, provided that no more than one roomer or boarder is to live within the household, and the owner complies with subdivision (c) of Section 12955, which prohibits discriminatory notices, statements, and advertisements.

(d) "Housing accommodation" means any building, structure, or portion thereof that is occupied as, or intended for occupancy as, a

residence by one or more families and any vacant land that is offered for sale or lease for the construction thereon of any building, structure, or portion thereof intended to be so occupied.

(e) "Owner" includes the lessee, sublessee, assignee, managing agent, real estate broker or salesperson, or any person having any legal or equitable right of ownership or possession or the right to rent or lease housing accommodations, and includes the state and any of its political subdivisions and any agency thereof.

(f) "Person" includes all individuals and entities that are described in Section 3602(d) of Title 42 of the United States Code, and in the definition of "owner" in subdivision (e) of this section.

(g) "Aggrieved person" includes any person who claims to have been injured by a discriminatory housing practice or believes that the person will be injured by a discriminatory housing practice that is about to occur.

(h) "Real estate-related transactions" include any of the following:

(1) The making or purchasing of loans or providing other financial assistance that is for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or that is secured by residential real estate.

(2) The selling, brokering, or appraising of residential real property.

SEC. 4. Section 12955 of the Government Code is amended to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against any person because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, color, race, religion, ancestry, national origin, familial status, marital status, disability, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase,

organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, marital status, ancestry, disability, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate-related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, marital status, ancestry, disability, familial status, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, familial status, disability, or national origin.

(*l*) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, familial status, marital status, disability, national origin, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

SEC. 5. Section 12955.1 of the Government Code is amended to read:

12955.1. For purposes of Section 12955, "discrimination" includes, but is not limited to, a failure to design and construct a covered multifamily dwelling in a manner that allows access to and use by disabled persons by providing, at a minimum, the following features:

(a) All covered multifamily dwellings shall have at least one building entrance on an accessible route, unless it is impracticable to

do so because of the terrain or unusual characteristics of the site. The burden of establishing impracticability because of terrain or unusual site characteristics is on the person or persons who designed or constructed the housing facility.

(b) All covered multifamily dwellings with a building entrance on an accessible route shall be designed and constructed in a manner that complies with all of the following:

(1) The public and common areas are readily accessible to and useable by handicapped persons.

(2) All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by handicapped persons in wheelchairs.

(3) All premises within covered multifamily dwelling units contain the following features of adaptable design:

(A) An accessible route into and through the covered dwelling unit.

(B) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations.

(C) Reinforcements in bathroom walls to allow later installation of grab bars around the toilet, tub, shower stall, and shower seat, where those facilities are provided.

(D) Useable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space.

(c) For purposes of this section, "covered multifamily dwellings" mean buildings consisting of four or more dwelling units if the buildings have one or more elevators; and ground floor dwelling units in other buildings consisting of four or more dwelling units. Dwelling units within a single structure separated by firewalls do not constitute separate buildings.

(d) Notwithstanding Section 12935, regulations adopting building standards necessary to implement, interpret, or make specific the provisions of this section shall be developed by the Office of the State Architect for public housing and by the Department of Housing and Community Development for all other residential occupancies, and shall be adopted pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of the Health and Safety Code. Prior to the effective date of regulations promulgated pursuant to this subdivision, existing federal accessibility standards that provide, to persons with disabilities, greater protections than existing state accessibility regulations shall apply. After regulations pursuant to this subdivision become effective, particular state regulations shall apply if they provide, to persons with disabilities, the same protections as, or greater protections than, the federal standards. If particular federal regulations provide greater protections than state regulations, then those federal standards shall apply. If the United States Department of Housing and Urban Development determines that any portion of the state regulations are not equivalent to the federal standards, the federal standards shall, as to those portions, apply to the design and construction of covered multifamily

dwellings until the state regulations are brought into compliance with the federal standards. The appropriate state agency shall provide notice pursuant to the Administrative Procedures Act (Chapter 5 (commencing with Section 11500) of Part 5 of Division 3 of Title 2) of that determination.

(e) In investigating discrimination complaints, the department shall apply the building standards contained in Title 24 of the California Code of Regulations to determine whether a covered multifamily dwelling is designed and constructed for access to and use by disabled persons in accordance with this section.

(f) The building standard requirements for persons with disabilities imposed by this section shall meet or exceed the requirements under the federal Fair Housing Amendments Act of 1988 (P.L. 100-430) and its implementing regulations (24 C.F.R. 100.1 et seq.) and the existing state law building standards contained in Title 24 of the California Code of Regulations.

SEC. 5.5. Section 12955.6 of the Government Code is amended to read:

12955.6. Nothing in this part shall be construed to afford to the classes protected under this part, fewer rights or remedies than the federal Fair Housing Amendments Act of 1988 (P.L. 100-430) and its implementing regulations (24 C.F.R. 100.1 et seq.), or state law relating to fair employment and housing as it existed prior to the effective date of this section. Any state law that purports to require or permit any action that would be an unlawful practice under this part shall to that extent be invalid. This part may be construed to afford greater rights and remedies to an aggrieved person than those afforded by federal law and other state laws.

SEC. 6. Section 12955.7 is added to the Government Code, to read:

12955.7. It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of that person having exercised or enjoyed, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by Section 12955 or 12955.1.

SEC. 7. Section 12955.8 is added to the Government Code, to read:

12955.8. For purposes of this article, in connection with unlawful practices:

(a) Proof of an intentional violation of this article includes, but is not limited to, an act or failure to act that is otherwise covered by this part, that demonstrates an intent to discriminate in any manner in violation of this part. A person intends to discriminate if race, color, religion, sex, familial status, marital status, disability, national origin, or ancestry is a motivating factor in committing a discriminatory housing practice even though other factors may have also motivated the practice. An intent to discriminate may be established by direct or circumstantial evidence.

(b) Proof of a violation causing a discriminatory effect is shown if an act or failure to act that is otherwise covered by this part, and that has the effect, regardless of intent, of unlawfully discriminating on the basis of race, color, religion, sex, familial status, marital status, disability, national origin, or ancestry. A business establishment whose action or inaction has an unintended discriminatory effect shall not be considered to have committed an unlawful housing practice in violation of this part if the business establishment can establish that the action or inaction is necessary to the operation of the business and effectively carries out the significant business need it is alleged to serve. In cases that do not involve a business establishment, the person whose action or inaction has an unintended discriminatory effect shall not be considered to have committed an unlawful housing practice in violation of this part if the person can establish that the action or inaction is necessary to achieve an important purpose sufficiently compelling to override the discriminatory effect and effectively carries out the purpose it is alleged to serve.

(1) Any determination of a violation pursuant to this subdivision shall consider whether or not there are feasible alternatives that would equally well or better accomplish the purpose advanced with a less discriminatory effect.

(2) For purposes of this subdivision, the term "business establishment" shall have the same meaning as in Section 51 of the Civil Code.

SEC. 8. Section 12955.9 is added to the Government Code, to read:

12955.9. (a) The provisions of this part relating to discrimination on the basis of familial status shall not apply to housing for older persons.

(b) As used in this section, "housing for older persons" means any of the following:

(1) Housing provided under any state or federal program that the Secretary of Housing and Urban Development determines is specifically designed and operated to assist elderly persons, as defined in the state or federal program.

(2) Housing that meets the standards for senior housing in Sections 51.2, 51.3, and 51.4 of the Civil Code, except to the extent that those standards violate the prohibition of familial status discrimination in the federal Fair Housing Amendments Act of 1988 (P.L. 100-430) and implementing regulations.

(3) Mobilehome parks that meet the standards for "housing for older persons" as defined in the federal Fair Housing Amendments Act of 1988 and implementing regulations.

(c) For purposes of this section, the burden of proof shall be on the owner to prove that the housing qualifies as housing for older persons.

SEC. 9. Section 12980 of the Government Code is amended to read:

12980. This article governs the procedure for the prevention and elimination of discrimination in housing made unlawful pursuant to Article 2 (commencing with Section 12955) of Chapter 6.

(a) Any person claiming to be aggrieved by an alleged violation of Section 12955, 12955.1, or 12955.7 may file with the department a verified complaint in writing that shall state the name and address of the person alleged to have committed the violation complained of, and that shall set forth the particulars thereof and contain any other information required by the department.

The filing of a complaint and pursuit of conciliation or remedy under this part shall not prejudice the complainant's right to pursue effective judicial relief under other applicable laws, but if a civil action has been filed under Section 52 of the Civil Code, the department shall terminate proceedings upon notification of the entry of final judgment unless the judgment is a dismissal entered at the complainant's request.

(b) The Attorney General or the director may, in a like manner, make, sign, and file complaints citing practices that appear to violate the purpose of this part or any specific provisions of this part relating to housing discrimination.

No complaint may be filed after the expiration of one year from the date upon which the alleged violation occurred or terminated.

(c) The department may thereupon proceed upon the complaint in the same manner and with the same powers as provided in this part in the case of an unlawful practice, except that where the provisions of this article provide greater rights and remedies to an aggrieved person than the provisions of Article 1 (commencing with Section 12960), the provisions of this article shall prevail.

(d) Upon the filing of a complaint, the department shall serve notice upon the complainant of the time limits, rights of the parties, and choice of forums provided for under the law, and shall also provide a written explanation that informs the complainant that, if an accusation is issued, the complainant may only be able to recover damages for emotional distress or other intangible injuries through a civil action filed under Section 12989.

(e) The department shall commence proceedings with respect to a complaint within 30 days of filing of the complaint.

(f) An investigation of allegations contained in any complaint filed with the department shall be completed within 100 days after receipt of the complaint, unless it is impracticable to do so. If the investigation is not completed within 100 days, the complainant and respondent shall be notified, in writing, of the department's reasons for not doing so.

(g) Upon the conclusion of each investigation, the department shall prepare a final investigative report containing all of the following:

(1) The names of any witnesses and the dates of any contacts with those witnesses.

(2) A summary of the dates of any correspondence or other

contacts with the aggrieved persons or the respondent.

(3) A summary of witness statements.

(4) Answers to interrogatories.

(5) A summary description of other pertinent records.

A final investigative report may be amended if additional evidence is later discovered.

(h) If an accusation is not issued within 100 days after the filing of a complaint, or if the department earlier determines that no accusation will issue, the department shall promptly notify the person claiming to be aggrieved. This notice shall, in any event, be issued no more than 30 days after the date of the determination or 30 days after the date of the expiration of the 100-day period, whichever date first occurs. The notice shall indicate that the person claiming to be aggrieved may bring a civil action under this part against the person named in the verified complaint within the time period specified in Section 12989.1 of the Government Code. The notice shall also indicate, unless the department has determined that no accusation will be issued, that the person claiming to be aggrieved has the option of continuing to seek redress for the alleged discrimination through the procedures of the department if he or she does not desire to file a civil action. The superior, municipal, and justice courts of the State of California shall have jurisdiction of these actions, and the aggrieved person may file in any of these courts. The action may be brought in any county in the state in which the violation is alleged to have been committed, or in the county in which the records relevant to the alleged violation are maintained and administered, but if the defendant is not found within that county, the action may be brought within the county of the defendant's residence or principal office. A copy of any complaint filed pursuant to this part shall be served on the principal offices of the department and of the commission. The remedy for failure to send a copy of a complaint is an order to do so. In a civil action brought under this section, the court, in its discretion, may award to the prevailing party reasonable attorney fees.

(i) All agreements reached in settlement of any housing discrimination complaint filed pursuant to this section shall be made public, unless otherwise agreed by the complainant and respondent, and the department determines that the disclosure is not required to further the purposes of the act.

(j) All agreements reached in settlement of any housing discrimination complaint filed pursuant to this section shall be agreements between the respondent and complainant, and shall be subject to approval by the department.

SEC. 10. Section 12981 of the Government Code is amended to read:

12981. (a) In the case of failure to eliminate a violation of Section 12955 12955.1, or 12955.7 which has occurred, or is about to occur, through conference, conciliation, and persuasion, or in advance thereof if circumstances warrant, the director shall cause to be issued

in the name of the department, notwithstanding Section 12971, a written accusation, in the same manner and with the same powers as provided in Section 12965, except that where the provisions of this article provide greater rights and remedies to an aggrieved person than Section 12965, the provisions of this article shall prevail. An accusation alleging an unfair housing practice shall be issued within 100 days after the filing of a complaint unless it is impracticable to do so. The accusation shall require the respondent to answer the charges at an administrative hearing or civil trial as elected by the parties pursuant to Section 12989. Any aggrieved person may intervene as a matter of right in the proceeding, and the appeal or other judicial review of that proceeding.

(b) If the department determines that an allegation concerns the legality of any zoning or other land use law or ordinance, the department or the Attorney General shall take appropriate action with respect to the complaint according to the procedures established in this part for other complaints of housing discrimination.

(c) The commission shall hold hearings on accusations issued pursuant to subdivision (a) in the same manner and with the same powers as provided in Sections 12967 to 12972, inclusive, except that where the provisions of this article provide greater rights and remedies to an aggrieved person than do Sections 12967 to 12972, inclusive, the provisions of this article shall prevail. The commission shall make final administrative disposition of a complaint alleging unfair housing practices within one year of the date of filing of the complaint, unless it is impracticable to do so. If the department is unable to make final administrative disposition of a complaint within one year, it shall notify the complainant and the respondent, in writing, of its reasons for not doing so.

(d) Within one year of the effective date of every final order or decision issued pursuant to this part, the department shall conduct a compliance review to determine whether the order or decision has been fully obeyed and implemented.

(e) Whenever the department has reasonable cause to believe that a respondent has breached a conciliation agreement, the department shall refer the matter to the Attorney General with a recommendation that a civil action be filed for the enforcement of the agreement.

(f) If the time for judicial review of a final commission order or decision has lapsed, or if all means of judicial review have been exhausted, the department may apply to the superior court in any county in which an action could have been brought under subdivision (b) of Section 12965 for the enforcement of the order or decision or order as modified in accordance with a decision on judicial review. If, after a hearing, the court determines that an order or decision has been issued by the commission and that either the time limits for judicial review have lapsed, or the order or decision was upheld in whole or in part on judicial review, the court shall issue

a judgment and order enforcing the order or decision or order as modified in accordance with a decision on judicial review. The court shall not review the merits of the order or decision. The court's judgment shall be nonappealable and 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.

(g) If the department determines, based on its investigation, that an accusation or amended accusation should include a prayer for damages for emotional distress or other intangible injuries as a component of actual damages, the department shall advise the complainant, in writing, that he or she may only be able to recover damages for emotional distress or other intangible injuries through a civil action filed under Section 12989.

SEC. 11. Section 12981.1 is added to the Government Code, to read:

12981.1. The department shall not dismiss a complaint or an accusation unless the complainant withdraws the complaint or the department determines after a thorough investigation that, based on the facts, no reasonable cause exists to believe that an unlawful housing practice, as prohibited by this part, has occurred or is about to occur.

SEC. 12. Section 12987.1 is added to the Government Code, to read:

12987.1. (a) Any party aggrieved by the commission's final order for relief may obtain a review of that order in accordance with the provisions of Section 1094.5 of the Code of Civil Procedure except that the limitations on the court's remedial powers as described in subdivision (f) of that section shall not apply.

(b) The superior court, in reviewing the commission's final order, may award the following relief:

(1) Grant to the petitioner, or any other party, temporary relief, including, but not limited to, a restraining order, or other order as the court deems just and proper.

(2) Affirm, modify, or set aside, in whole or in part, the order, or remand the order for further proceedings, and enforce the order to the extent that it is affirmed or modified.

(c) Any party to the proceeding before the commission or aggrieved person may intervene as a matter of right in the superior court proceeding.

(d) When the time for petitioning a court for review of the commission's order has expired, the department or any party to the commission proceeding may petition a court for a decree enforcing the commission's order. The court may grant any relief necessary to ensure compliance with the commission's order.

SEC. 13. Section 12989 of the Government Code is amended to read:

12989. (a) If an accusation is issued under Section 12981, a complainant, a respondent, or an aggrieved person on whose behalf a complaint is filed may elect, in lieu of an administrative proceeding

under Section 12981, to have the claims asserted in the charge adjudicated in a civil action under this part.

(b) An election under this section may be made within 20 days after the service of the accusation, and not later than 20 days after service of the complaint to the respondent. A notice of election shall be filed with the department, and the department shall serve a copy of the notice to the director, the respondent, and the aggrieved person on whose behalf the complaint is filed. The notice shall be filed and served on all parties to the complaint in accordance with the procedures established by Section 12962.

(c) If either party serves a notice of election upon the department, as prescribed, the department shall, within 30 days after service of the notice of the election, dismiss the accusation. The department shall itself, or at its election through the Attorney General, within 30 days of receipt of the notice of election, file a civil action with the proper municipal or superior court of competent jurisdiction in its name or on behalf of the aggrieved person as a real party in interest. In bringing a civil or administrative action, or pursuing subsequent appeals of those actions, the department or the Attorney General shall, in its representation of an aggrieved person's interests, comply with the Rules of Professional Conduct of the State Bar of California. The action may be filed in any county in the state in which the unlawful practice is alleged to have been committed, in the county in which the records relevant to that practice are maintained and administered, or in the county in which the aggrieved person would have resided in the housing accommodation. If the respondent is not found within that county, the action may be filed in the county of the respondent's residence or principal office.

(d) Any person aggrieved with respect to the issues to be determined in a civil action filed under this part may intervene as of right in that civil action.

(e) If an election is not made pursuant to this section, the director shall maintain an administrative proceeding based on the charges in the complaint in accordance with the procedures set forth in Section 12981.

(f) The director or his or her designated representative shall be available for consultation concerning any legal issues raised by the Attorney General that relate to evidentiary or tactical matters relevant to any civil action brought under this part.

SEC. 14. Section 12989.2 of the Government Code is amended to read:

12989.2. In a civil action brought under Section 12989 or 12989.1, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award the plaintiff or complainant actual and punitive damages and may grant other relief, including the issuance of a temporary or permanent injunction, or temporary restraining order, or other order, as it deems appropriate to prevent any defendant from engaging in or continuing to engage in an

unlawful practice. The court may, at its discretion, award the prevailing party, other than the state, reasonable attorney's fees and costs.

SEC. 15. Section 12993 of the Government Code is amended to read:

12993. (a) The provisions of this part shall be construed liberally for the accomplishment of the purposes thereof. Nothing contained in this part shall be deemed to repeal any of the provisions of the Civil Rights Law or of any other law of this state relating to discrimination because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, or age, unless those provisions provide less protection to the enumerated classes of persons covered under this part.

(b) Nothing contained in this part relating to discrimination in employment on account of sex or medical condition shall be deemed to affect the operation of the terms or conditions of any bona fide retirement, pension, employee benefit, or insurance plan, provided the terms or conditions are in accordance with customary and reasonable or actuarially sound underwriting practices.

(c) While it is the intention of the Legislature to occupy the field of regulation of discrimination in employment and housing encompassed by the provisions of this part, exclusive of all other laws banning discrimination in employment and housing by any city, city and county, county, or other political subdivision of the state, nothing contained in this part shall be construed, in any manner or way, to limit or restrict the application of Section 51 of the Civil Code.

SEC. 16. Section 12995 of the Government Code is amended to read:

12995. (a) Nothing contained in this part relating to discrimination in housing shall be construed to:

(1) Affect the title or other interest of a person who, prior to the granting of relief, purchases, leases, or takes an encumbrance on a housing accommodation in good faith and without either knowledge or actual notice of the filing of a complaint with the department or of a civil action.

(2) Prohibit any postsecondary educational institution, whether private or public, from providing housing accommodations reserved for either male or female students so long as no individual person is denied equal access to housing accommodations, or from providing separate housing accommodations reserved primarily for married students or for students with minor dependents who reside with them.

(3) Prohibit selection based upon factors other than race, color, religion, sex, marital status, national origin, ancestry, familial status, disability, or other basis prohibited by the Unruh Civil Rights Act.

(4) Promote housing accommodations on a preferential or quota basis.

(b) Nothing contained in this part relating to discrimination in

housing shall affect the nondiscriminatory enforcement of state and local public nuisance laws, provided that those laws do not otherwise conflict with the provisions of this part.

SEC. 17. It is the Legislature's intent that this act be applicable to the secondary mortgage market. However, it is not the Legislature's intent that persons making or purchasing mortgage loans be precluded from taking into consideration factors justified by business necessity, including requirements under federal law, that relate to the financial security of the transaction or protections against default or diminution of value of the security.

SEC. 18. It is the Legislature's intent to make the following findings and declarations regarding unlawful housing practices prohibited by this act:

(a) That public and private land use practices, decisions, and authorizations have restricted, in residentially zoned areas, the establishment and operation of group housing, and other uses.

(b) That persons with disabilities and children who are in need of specialized care and included within the definition of familial status are significantly more likely than other persons to live with unrelated persons in group housing.

(c) That this act covers unlawful discriminatory restrictions against group housing for these persons.

CHAPTER 1278

An act to amend Section 1523.1 of the Health and Safety Code, relating to community care facilities.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 1523.1 of the Health and Safety Code is amended to read:

1523.1. (a) (1) A fee adjusted by facility and capacity shall be charged by the department for the issuance of an original license or special permit or for processing any application therefor. After initial licensure, the fee shall be charged by the department annually on each anniversary of the effective date of the license or special permit. The fee is for the purpose of financing a portion of the application and annual processing costs and the activities specified in subdivision (b). The fee shall be assessed as follows:

Fee Schedule

Facility Type	Capacity	Original Application	Annual
Foster Family and Adoption Agencies		$1,000	$1,000
Other Community Care Facilities, Except Adult Day Care Facilities and Adult Day Support Centers	1–6	$300	$300
	7–15	$450	$450
	16–49	$600	$600
	50+	$750	$750
Adult Day Care Facilities and Adult Day Support Centers	1–15	$0	$50
	16–30	$100	$100
	31–60	$200	$200
	61–75	$250	$250
	76–90	$300	$300
	91–120	$400	$400
	121+	$500	$500

(2) Certified family homes of foster family agencies and foster family homes shall be exempt from the fees imposed pursuant to this subdivision.

(3) No local jurisdiction shall impose any business license, fee, or tax for the privilege of operating a facility licensed under this chapter which serves six or fewer persons.

(b) (1) The revenues collected from licensing fees pursuant to this section shall be utilized by the department to fund increased assistance and monitoring of facilities with a history of noncompliance with licensing laws and regulations pursuant to this chapter, and other administrative activities in support of the licensing program, when appropriated for these purposes. The revenues collected shall be used in addition to any other funds appropriated in the Budget Act in support of the licensing program.

(2) The department shall not utilize any portion of these revenues sooner than 30 days after notification in writing of the purpose and use of this revenue, as approved by the Director of Finance, to the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the committee in each house that considers appropriations for each fiscal year. For fiscal year 1992–93 and thereafter, the department shall submit a budget change proposal to justify any positions or any other related support costs on an ongoing basis.

(c) A facility may use a bona fide business check to pay the license fee required under this section.

(d) Failure to pay required license fees, including the finding of

insufficient funds to cover bona fide business checks submitted for the purpose shall constitute grounds for denial of a license or special permit or forfeiture of a license or special permit.

CHAPTER 1279

An act to amend Section 9356 of the Public Resources Code, and to amend Section 97.03 of the Revenue and Taxation Code, relating to districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 9356 of the Public Resources Code is amended to read:

9356. (a) Except as provided in subdivision (b), directors shall be elected at large.

(b) A district may, by ordinance, provide for the election of directors by division. In order to reduce election costs, the divisions shall be established along the boundaries of existing voting precincts. Prior to adopting an ordinance pursuant to this subdivision, the text of the proposed ordinance, including proposed division boundaries, shall be published pursuant to Section 6066 of the Government Code, together with notice of the hearing at which the ordinance will be considered. At the time stated in the notice for the hearing, the board of directors shall consider the proposal and shall hear any and all objections thereto. If, after the hearing, the board determines it to be in the best interests of the district, it shall adopt the ordinance as proposed or as amended at the hearing. Directors in office at the time of adoption of the ordinance shall remain in office until the next general district election, at which a director shall be elected to each division established by the ordinance. The directors elected at that election shall meet and classify themselves by lot into two classes as nearly equal in number as possible. The term of office of those in the class having the least number shall expire at noon on the last Friday in November of the next even-numbered year after the year in which the meeting is held. The term of office of those in the other class shall expire at noon on the last Friday in November of the second even-numbered year after the year in which the meeting is held.

(c) If it is proposed to change the number of directors of a district divided into divisions, or if it is proposed to change the number of divisions in a district, that change shall be conditional upon adoption by the board of directors of a new or revised ordinance under subdivision (b) and the provisions and procedures of subdivision (b)

shall be applicable thereto.

(d) Notwithstanding subdivisions (b) and (c), in any district in which directors are appointed pursuant to Section 9314 or 9316, the board of supervisors of the principal county shall make the appointments by division, as called for in the ordinance adopted pursuant to subdivision (b), and those appointments shall become effective, and the terms of existing directors shall expire, on the same date as if the directors were elected.

SEC. 2. Section 97.03 of the Revenue and Taxation Code is amended to read:

97.03. Notwithstanding any other provision of this chapter, the computations and allocations made by each county pursuant to Section 97 shall be modified for the 1992–93 fiscal year pursuant to subdivisions (a) to (d), inclusive, and for the 1997–98 and 1998–99 fiscal years pursuant to subdivision (e), as follows:

(a) (1) Except as provided in paragraph (2), the amount of property tax revenue deemed allocated in the prior fiscal year to each county shall be reduced by the dollar amounts indicated as follows, multiplied by .953649:

County	Property Tax Reduction per County
Alameda	$ 27,323,576
Alpine	5,169
Amador	286,131
Butte	846,452
Calaveras	507,526
Colusa	186,438
Contra Costa	12,504,318
Del Norte	46,523
El Dorado	1,544,590
Fresno	5,387,570
Glenn	378,055
Humboldt	1,084,968
Imperial	998,222
Inyo	366,402
Kern	6,907,282
Kings	1,303,774
Lake	998,222
Lassen	93,045
Los Angeles	244,178,806
Madera	809,194
Marin	3,902,258
Mariposa	40,136
Mendocino	1,004,112
Merced	2,445,709
Modoc	134,650
Mono	319,793

Monterey	2,519,507
Napa	1,362,036
Nevada	762,585
Orange	9,900,654
Placer	1,991,265
Plumas	71,076
Riverside	7,575,353
Sacramento	15,323,634
San Benito	198,090
San Bernardino	14,467,099
San Diego	17,687,776
San Francisco	53,266,991
San Joaquin	8,574,869
San Luis Obispo	2,547,990
San Mateo	7,979,302
Santa Barbara	4,411,812
Santa Clara	20,103,706
Santa Cruz	1,416,413
Shasta	1,096,468
Sierra	97,103
Siskiyou	467,390
Solano	5,378,048
Sonoma	5,455,911
Stanislaus	2,242,129
Sutter	831,204
Tehama	450,559
Trinity	50,399
Tulare	4,228,525
Tuolumne	740,574
Ventura	9,412,547
Yolo	1,860,499
Yuba	842,857

(2) Notwithstanding paragraph (1), the amount of the reduction specified in that paragraph for any county or city and county that has been materially and substantially impacted as a result of a federally declared disaster, as evidenced by at least 20 percent of the cities, or cities and unincorporated areas of the county representing 20 percent of the population within the county suffering substantial damage, as certified by the Director of the Office of Emergency Services, occurring between October 1, 1989, and the effective date of this section, shall be reduced by that portion of five million dollars ($5,000,000) determined for that county or city and county pursuant to subparagraph (B) of paragraph (3).

(3) On or before October 1, 1992, the Director of Finance shall do all of the following:

(A) Determine the population of each county and city and county in which a federally declared disaster has occurred between October 1, 1989, and the effective date of this section.

(B) Determine for each county and city and county as described in subparagraph (A) its share of five million dollars ($5,000,000) on the basis of that county's population relative to the total population of all counties described in subparagraph (A).

(C) Notify each auditor of each county and city and county of the amounts determined pursuant to subparagraph (B).

(b) (1) Except as provided in paragraph (2), the amount of property tax revenue deemed allocated in the prior fiscal year to each city, except for a newly incorporated city that did not receive property tax revenues in the 1991–92 fiscal year, shall be reduced by 9 percent. In making the above computation with respect to cities in Alameda County, the computation for a city described in paragraph (6) of subdivision (a) of Section 100.7, as added by Section 73.5 of Chapter 323 of the Statutes of 1983, shall be adjusted so that the amount multiplied by 9 percent is reduced by the amount determined for that city for "museums" pursuant to paragraph (2) of subdivision (h) of Section 95.

(2) Notwithstanding paragraph (1), the amount of the reduction determined pursuant to that paragraph for any city that has been materially and substantially impacted as a result of a federally declared disaster, as certified by the Director of the Office of Emergency Services, occurring between October 1, 1989, and the effective date of this section, shall be reduced by that portion of fifteen million dollars ($15,000,000) determined for that city pursuant to subparagraph (B) of paragraph (3).

(3) On or before October 1, 1992, the Director of Finance shall do all of the following:

(A) Determine the population of each city in which a federally declared disaster has occurred between October 1, 1989, and the effective date of this section.

(B) Determine for each city as described in subparagraph (A) its share of fifteen million dollars ($15,000,000) on the basis of that city's population relative to the total population of all cities described in subparagraph (A).

(C) Notify each auditor of each county and city and county of the amounts determined pursuant to subparagraph (B).

(4) In the 1992–93 fiscal year and each fiscal year thereafter, the auditor shall adjust the computations required pursuant to Sections 97.35, 97.36, 97.38, and 97.39 so that those computations do not result in the restoration of any reduction required pursuant to this section.

(c) (1) Subject to paragraph (2), the amount of property tax revenue, other than those revenues that are pledged to debt service, deemed allocated in the prior fiscal year to a special district, other than a multicounty district, a local hospital district, or a district governed by a city council or whose governing board has the same membership as a city council, shall be reduced by 35 percent. For purposes of this subdivision, "revenues that are pledged to debt service" include only those amounts required to pay debt service costs in the 1991–92 fiscal year on debt instruments issued by a special

district for the acquisition of capital assets.

(2) No reduction pursuant to paragraph (1) for any special district, other than a countywide water agency that does not sell water at retail, shall exceed an amount equal to 10 percent of that district's total annual revenues, from whatever source, as shown in the 1989–90 edition of the State Controller's Report on Financial Transactions Concerning Special Districts (not including any annual revenues from fiscal years following the 1989–90 fiscal year). With respect to any special district, as defined pursuant to subdivision (m) of Section 95, that is allocated property tax revenue pursuant to this chapter but does not appear in the State Controller's Report on Financial Transactions Concerning Special Districts, the auditor shall determine the total annual revenues for that special district from the information in the 1989–90 edition of the State Controller's Report on Financial Transactions Concerning Counties. With respect to a special district that did not exist in the 1989–90 fiscal year, the auditor may use information from the first full fiscal year, as appropriate, to determine the total annual revenues for that special district. No reduction pursuant to paragraph (1) for any countywide water agency that does not sell water at retail shall exceed an amount equal to 10 percent of that portion of that agency's general fund derived from property tax revenues.

(3) The auditor in each county shall, on or before January 15, 1993, and on or before January 30 of each year thereafter, submit information to the Controller concerning the amount of the property tax revenue reduction to each special district within that county as a result of paragraphs (1) and (2). The Controller shall certify that the calculation of the property tax revenue reduction to each special district within that county is accurate and correct, and submit this information to the Director of Finance.

(A) The Director of Finance shall determine whether the total of the amounts of the property tax revenue reductions to special districts, as certified by the Controller, is equal to the amount that would be required to be allocated to school districts and community college districts as a result of a three hundred seventy-five million dollar ($375,000,000) shift of property tax revenues from special districts for the 1992–93 fiscal year. If, for any year, the total of the amount of the property tax revenue reductions to special districts is less than the amount as described in the preceding sentence, the amount of property tax revenue, other than those revenues that are pledged to debt service, deemed allocated in the prior fiscal year to a special district, other than a multicounty district, a local hospital district, or a district governed by a city council or whose governing board has the same membership as a city council, shall, subject to subparagraph (B), be reduced by an amount up to 5 percent of the amount subject to reduction for that district pursuant to paragraphs (1) and (2).

(B) No reduction pursuant to subparagraph (A), in conjunction with a reduction pursuant to paragraphs (1) and (2), for any special

district, other than a countywide water agency that does not sell water at retail, shall exceed an amount equal to 10 percent of that district's total annual revenues, from whatever source, as shown in the most recent State Controller's Report on Financial Transactions Concerning Special Districts. No reduction pursuant to subparagraph (A), in conjunction with a reduction pursuant to paragraphs (1) and (2), for any countywide water agency that does not sell water at retail shall exceed an amount equal to 10 percent of that portion of that agency's general fund derived from property tax revenues.

(C) In no event shall the amount of the property tax revenue loss to a special district derived pursuant to subparagraphs (A) and (B) exceed 40 percent of that district's property tax revenues or 10 percent of that district's total revenues, from whatever source.

(4) For the purpose of determining the total annual revenues of a special district, all of the following shall be excluded from the determination of total annual revenues:

(A) Any one-time revenues received by the district from any source, public or private.

(B) Any revenues derived from an enterprise activity with respect to which no property tax revenues are reported on the district's most recent report to the Controller of financial transactions. For purposes of computing this exclusion with respect to a special district created by consolidation of two or more special districts subsequent to the 1989–1990 fiscal year, the amount of the exclusion shall be the aggregate of the exclusions that would have been applicable under this subparagraph as if each former district so consolidated had continued in existence.

(5) For the purpose of determining the total annual revenues of a special district that provides fire protection or fire suppression services, all of the following shall be excluded from the determination of total annual revenues:

(A) If the district had less than two million dollars ($2,000,000) in total annual revenues in the 1991–92 fiscal year, the revenue generated by a fire suppression assessment levied pursuant to Article 3.6 (commencing with Section 50078) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code.

(B) Any appropriation for fire protection received by a district pursuant to Section 25642 of the Government Code.

(C) The revenue received by a district as a result of contracts entered into pursuant to Section 4133 of the Public Resources Code.

(6) For the purpose of determining the total annual revenues of a resource conservation district, all of the following shall be excluded from the determination of total annual revenues:

(A) Any revenues received by that district from the state for financing the acquisition of land, or the construction or improvement of state projects, and for which that district serves as the fiscal agent in administering those state funds pursuant to an agreement entered into between that district and a state agency.

(B) Any amount received by that district as a private gift or donation.

(C) Any amount received as a county grant or contract as supplemental to, or independent of, that district's property tax share.

(D) Any amount received by that district as a federal or state grant.

(d) (1) The amount of property tax revenues not allocated to the county, cities within the county, and special districts as a result of the reductions calculated pursuant to subdivisions (a), (b), and (c) shall instead be deposited in the Educational Revenue Augmentation Fund to be established in each county. The amount of revenue in the Educational Revenue Augmentation Fund, derived from whatever source, shall be allocated pursuant to paragraphs (2) and (3) to school districts and county offices of education, in total, and to community college districts, in total, in the same proportion that property tax revenues were distributed to school districts and county offices of education, in total, and community college districts, in total, during the 1991–92 fiscal year.

(2) The auditor shall, based on information provided by the county superintendent of schools pursuant to this paragraph, allocate the proportion of the Educational Revenue Augmentation Fund to those school districts and county offices of education within the county that are not excess tax school entities, as defined in Section 95.1. The county superintendent of schools shall determine the amount to be allocated to each school district and county office of education in inverse proportion to the amounts of property tax revenue per average daily attendance in each school district and county office of education. In no event shall any additional money be allocated from the fund to a school district or county office of education upon that school district or county office of education becoming an excess tax school entity.

(3) The auditor shall, based on information provided by the Chancellor of the California Community Colleges pursuant to this paragraph, allocate the proportion of the Educational Revenue Augmentation Fund to those community college districts within the county that are not excess tax school entities, as defined in Section 84750 of the Education Code. The chancellor shall determine the amount to be allocated to each community college district in inverse proportion to the amounts of property tax revenue per funded full-time equivalent student in each community college district. In no event shall any additional money be allocated from the fund to a community college district upon that district becoming an excess tax school entity.

(4) If, after making the allocation required pursuant to paragraph (2), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (3). If, after making the allocation pursuant to paragraph (3), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to

paragraph (2).

(5) For purposes of allocations made pursuant to Section 97 for the 1993–94 fiscal year, the amounts allocated from the Educational Revenue Augmentation Fund pursuant to this subdivision, other than amounts deposited in the Educational Revenue Augmentation Fund pursuant to Section 33681 of the Health and Safety Code, shall be deemed property tax revenue allocated to the Educational Revenue Augmentation Fund in the prior fiscal year.

(e) (1) For the 1997–98 fiscal year:

(A) The amount of property tax revenue deemed allocated in the prior fiscal year to any city subject to the reduction specified in paragraph (2) of subdivision (b) shall be reduced by an amount that is equal to the difference between the amount determined for the city pursuant to paragraph (1) of subdivision (b) and the amount of the reduction determined for the city pursuant to paragraph (2) of subdivision (b).

(B) The amount of property tax revenue deemed allocated in the prior fiscal year to any county or city and county subject to the reduction specified in paragraph (2) of subdivision (a) shall be reduced by an amount that is equal to the difference between the amount specified for the county or city and county pursuant to paragraph (1) of subdivision (a) and the amount of the reduction determined for the county or city and county pursuant to paragraph (2) of subdivision (a).

(2) The amount of property tax revenues not allocated to a city or city and county as a result of this subdivision shall be deposited in the Educational Revenue Augmentation Fund described in subparagraph (A) of paragraph (1) of subdivision (d).

(3) For purposes of allocations made pursuant to Section 97 for the 1998–99 fiscal year, the amounts allocated from the Educational Revenue Augmentation Fund pursuant to this subdivision shall be deemed property tax revenues allocated to the Educational Revenue Augmentation Fund in the prior fiscal year.

(f) It is the intent of the Legislature in enacting this section that this section supersede and be operative in place of Section 97.03 of the Revenue and Taxation Code, as added by Senate Bill 617 of the 1991–92 Regular Session.

SEC. 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 to prevent misinterpretation of Section 97.03 of the Revenue and Taxation Code, to remedy unintended loss of district revenues, and to clarify the law regarding the appointment of district directors without delay, it is necessary that this act go into effect immediately.

CHAPTER 1280

An act to repeal and add Article 24 (commencing with Section 2505) of Chapter 5 of Division 2 of the Business and Professions Code, to amend Section 11512.07 of, and to add Section 10354 to, the Insurance Code, and to add Section 14132.39 to the Welfare and Institutions Code, relating to midwifery, and making an appropriation therefor.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

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

(a) Over 40,000 babies die every year in the United States, many of them as a result of being born severely underweight. That rate, among the worst in the developed world, has been condemned by health experts as a preventable tragedy and a national disgrace.

(b) Research has shown for every dollar society might spend to reduce the number of underweight births, three dollars ($3) in medical-care costs could be saved.

(c) The increasing state budget deficit limits the amounts of state funds available to subsidize public health care.

(d) It is in agreement with the principle stated by the World Health Organization that each woman has a fundamental right to receive proper prenatal care, that the woman has a central role in all aspects of this care, including participation in the planning, carrying out, and evaluation of the care, and that social, emotional, and psychological factors are decisive in the understanding and implementation of proper prenatal care.

(e) Prenatal care reduces the incidence of low birth weights.

(f) The number of available physicians and surgeons to serve low-income pregnant women has sharply decreased.

(g) Five nations with the lowest prenatal mortality rates have 70 percent of all births attended by midwives.

(h) In a 1982 report by the Department of Consumer Affairs,

recommendations were made to actively promote nurse and nonnurse midwifery services as one means of providing cost-effective, comprehensive perinatal services which have been shown to be effective in lowering perinatal morbidity and mortality rates.

(i) The Office of Statewide Health Planning and Development (OSHPD) recommended in its 1986 study of Alternative Birthing Methods that a separate category of licensed midwives should be established in the Department of Consumer Affairs.

(j) The OSHPD further recommended that competencies for this new category should be comparable to those of nurse-midwives and physician assistant-midwives, although licensure as a registered nurse or physician assistant should not be required to become a licensed midwife.

(k) The Legislature supports a multifaceted, cost-effective approach which includes licensed midwives providing prenatal, delivery and necessary followup care to families.

SEC. 2. Article 24 (commencing with Section 2505) of Chapter 5 of Division 2 of the Business and Professions Code is repealed.

SEC. 3. Article 24 (commencing with Section 2505) is added to Chapter 5 of Division 2 of the Business and Professions Code, to read:

Article 24. Licensed Midwives

2505. This article shall be known and may be cited as the Licensed Midwifery Practice Act of 1993.

2506. As used in this article the following definitions shall apply:

(a) "Board" means the Division of Licensing of the Medical Board of California.

(b) "Licensed midwife" means an individual to whom a license to practice midwifery has been issued pursuant to this article.

(c) "Certified nurse-midwife" means a person to whom a certificate has been issued pursuant to Article 2.5 (commencing with Section 2746) of Chapter 6.

(d) "Accrediting organization" means an organization recognized by the United States Department of Education, Division of Accreditation.

2507. (a) The license to practice midwifery authorizes the holder, under the supervision of a licensed physician and surgeon, to attend cases of normal childbirth and to provide prenatal, intrapartum, and postpartum care, including family-planning care, for the mother, and immediate care for the newborn.

(b) As used in this article, the practice of midwifery constitutes the furthering or undertaking by any licensed midwife, under the supervision of a licensed physician and surgeon who has current practice or training in obstetrics, to assist a woman in childbirth so long as progress meets criteria accepted as normal. All complications shall be referred to a physician immediately. The practice of midwifery does not include the assisting of childbirth by any

artificial, forcible, or mechanical means, nor the performance of any version.

(c) As used in this article, "supervision" shall not be construed to require the physical presence of the supervising physician.

(d) The ratio of licensed midwives to supervising physicians shall not be greater than four individual licensed midwives to one individual supervising physician.

(e) A midwife is not authorized to practice medicine and surgery by this article.

2508. (a) If a licensed midwife does not have liability coverage for the practice of midwifery, he or she shall disclose to a client that fact.

(b) A licensed midwife shall disclose to a client that a specific physician is being briefed regularly concerning the client's pregnancy and that the physician is prepared to take care of complications in the hospital if necessary.

2511. (a) No person, other than one who has been licensed to practice midwifery by the board, shall hold himself or herself out as a licensed midwife, or use any other term indicating or implying that he or she is a licensed midwife.

(b) Nothing in this article shall be construed to limit in any manner the practice of an individual to whom a certificate has been issued pursuant to Article 2.5 (commencing with Section 2746) of Chapter 6, or to prevent an individual to whom a certificate has been issued pursuant to Article 2.5 (commencing with Section 2746) of Chapter 6 from holding himself or herself out as a certified nurse-midwife, nurse midwife, midwife, or from using the initials "CNM."

2512. The board shall issue a license to practice midwifery to all applicants who meet the requirements of this article and who pay the fee required by Section 2520.

2512.5. A person is qualified for a license to practice midwifery when he or she satisfies one of the following requirements:

(a) (1) Successful completion of a three-year postsecondary midwifery education program accredited by an accrediting organization recognized by the United States Department of Education, Division of Accreditation. Upon successful completion of the education requirements of this article, the applicant shall successfully complete a comprehensive licensing examination adopted by the board which is equivalent, but not identical, to the examination given by the American College of Nurse Midwives.

(2) The midwifery education program curriculum shall consist of not less than 84 semester units or 126 quarter units. The course of instruction shall be presented in semester or quarter units under the following formula:

(A) One hour of instruction in the theory each week throughout a semester or quarter equals one unit.

(B) Three hours of clinical practice each week throughout a semester or quarter equals one unit.

(3) The midwifery education program shall provide both academic and clinical preparation equivalent, but not identical to that provided in programs accredited by the American College of Nurse Midwives, which shall include, but not be limited to, preparation in all of the following areas:

(A) The art and science of midwifery, one-half of which shall be in theory and one-half of which shall be in clinical practice. Theory and clinical practice shall be concurrent in the areas of maternal and child health, including, but not limited to, labor and delivery, neonatal well care, and postpartum care.

(B) Communications skills that include the principles of oral, written, and group communications.

(C) Anatomy and physiology, genetics, obstetrics and gynecology, embryology and fetal development, neonatology, applied microbiology, chemistry, child growth and development, pharmacology, nutrition, laboratory diagnostic tests and procedures, and physical assessment.

(D) Concepts in psychosocial, emotional, and cultural aspects of maternal and child care, human sexuality, counseling and teaching, maternal and infant and family bonding process, breast feeding, family planning, principles of preventive health, and community health.

(E) Aspects of the normal pregnancy, labor and delivery, postpartum period, newborn care, family planning or routine gynecological care in alternative birth centers, homes, and hospitals.

(F) The following shall be integrated throughout the entire curriculum:

(i) Midwifery process.

(ii) Basic intervention skills in preventive, remedial, and supportive midwifery.

(iii) The knowledge and skills required to develop collegial relationships with health care providers from other disciplines.

(iv) Related behavioral and social sciences with emphasis on societal and cultural patterns, human development, and behavior related to maternal and child health, illness, and wellness.

(G) Instruction shall also be given in personal hygiene, client abuse, cultural diversity, and the legal, social, and ethical aspects of midwifery.

(H) The program shall include the midwifery management process, which shall include all of the following:

(i) Obtaining or updating a defined and relevant data base for assessment of the health status of the client.

(ii) Identifying problems based upon correct interpretation of the data base.

(iii) Preparing a defined needs or problem list, or both, with corroboration from the client.

(iv) Consulting, collaborating with, and referring to, appropriate members of the health care team.

(v) Providing information to enable clients to make appropriate

decisions and to assume appropriate responsibility for their own health.

(vi) Assuming direct responsibility for the development of comprehensive, supportive care for the client and with the client.

(vii) Assuming direct responsibility for implementing the plan of care.

(viii) Initiating appropriate measures for obstetrical and neonatal emergencies.

(ix) Evaluating, with corroboration from the client, the achievement of health care goals and modifying the plan of care appropriately.

(b) Successful completion of an educational program that the board has determined satisfies the criteria of subdivision (a) and current licensure as a midwife by a state with licensing standards that have been found by the board to be equivalent to those adopted by the board pursuant to this article.

2513. (a) An approved midwifery education program shall offer the opportunity for students to obtain credit by examination for previous midwifery education and clinical experience. The applicant shall demonstrate, by practical examination, the clinical competencies described in Section 2514 or established by regulation pursuant to Section 2514.5. The midwifery education program's credit by examination policy shall be approved by the board, and shall be available to applicants upon request. The proficiency and practical examinations shall be approved by the board.

(b) Completion of clinical experiences shall be verified by a licensed midwife or certified nurse-midwife, and a physician and surgeon, all of whom shall be current in the knowledge and practice of obstetrics and midwifery. Physicians and surgeons, licensed midwives, and certified nurse-midwives who participate in the verification and evaluation of an applicant's clinical experiences shall show evidence of current practice. The method used to verify clinical experiences shall be approved by the board.

(c) Upon successful completion of the requirements of paragraphs (1) and (2), the applicant shall also complete the licensing examination described in paragraph (1) of subdivision (a).

2514. The midwifery education program shall prepare the midwife to practice as follows:

(a) Management of the normal pregnancy.

(b) Management of normal labor and delivery in all birth settings, including the following, when indicated:

(1) Administration of intravenous fluids, analgesics, postpartum oxytocics, and RhoGAM.

(2) Amniotome during labor.

(3) Application of external or internal monitoring devices.

(4) Administration of local anesthesia, paracervical blocks, pudendal blocks, and local infiltration.

(5) Episiotomy.

(6) Repair of episiotomies and lacerations.

(7) Resuscitation of the newborn.

(c) Management of the normal postpartum period.

(d) Management of the normal newborn care, including administration of vitamin K and eye prophylaxis.

(e) Management of family planning and routine gynecological care including barrier methods of contraception such as diaphragms and cervical caps.

(f) This section 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.

2514.5. (a) Within 60 days following January 1, 1998, the board shall adopt regulations setting forth educational requirements. To develop these regulations, the board shall update the educational requirements set forth in Sections 2512.5, 2513, and 2514. These updated sections shall reflect national standards for the practice of midwifery and shall be subject to public hearings prior to adoption. The board shall review and update the regulations every two years.

(b) The board shall adopt the written examination required by this article by July 1, 1994.

2515. The board shall approve specific educational programs intended to meet the requirements of subdivision (a) of Section 2512.5 and Section 2514 for the course of academic study, documentation of experience and skill, and clinical evaluation. These programs shall also be accredited by an accrediting organization approved by the board.

2515.5. Each applicant shall show by evidence satisfactory to the board that he or she has met the educational standards established by the board pursuant to this article or the equivalent thereof.

2517. A person who has been convicted of a misdemeanor violation of Section 2052, prior to the effective date of this article, shall not be barred from licensure under this article solely because of that conviction.

2518. (a) Licenses issued pursuant to this article shall be renewable every two years upon payment of the fee prescribed by Section 2520 and submission of documentation that the licenseholder has completed 36 hours of continuing education in areas that fall within the scope of the practice of midwifery, as specified by the board.

(b) Each license not renewed shall expire, but may be reinstated within five years from the expiration upon payment of the prescribed fee and upon submission of proof of the applicant's qualifications as the board may require.

2519. The board may suspend or revoke the license of a midwife for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, all of the following:

(1) Incompetence or gross negligence in carrying out the usual functions of a licensed midwife.

(2) Conviction of a violation of Section 2052, in which event, the

record of the conviction shall be conclusive evidence thereof.

(3) The use of advertising which is fraudulent or misleading.

(4) Obtaining or possessing in violation of law, or prescribing, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administering to himself or herself, or furnishing or administering to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug as defined in Article 8 (commencing with Section 4210) of Chapter 9 of Division 2 of the Business and Professions Code.

(5) The use of any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 8 (commencing with Section 4210) of Chapter 9 of Division 2 of the Business and Professions Code, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(6) Conviction of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in paragraphs (4) and (5), or the possession of, or falsification of, a record pertaining to, the substances described in paragraph (4), in which event the record of the conviction is conclusive evidence thereof.

(7) Commitment or confinement by a court of competent jurisdiction for intemperate use of or addiction to the use of any of the substances described in paragraphs (4) and (5), in which event the court order of commitment or confinement is prima facie evidence of such commitment or confinement.

(8) Falsifying, or making grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a).

(b) Procuring a license by fraud or misrepresentation.

(c) Conviction of a crime substantially related to the qualifications, functions, and duties of a midwife, as determined by the board.

(d) Procuring, aiding, abetting, attempting, agreeing to procure, offering to procure, or assisting at, a criminal abortion.

(e) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of this chapter.

(f) Making or giving any false statement or information in connection with the application for issuance of a license.

(g) Impersonating any applicant or acting as proxy for an applicant in any examination required under this chapter for the issuance of a license or a certificate.

(h) Impersonating another licensed practitioner, or permitting or allowing another person to use his or her license or certificate for the

purpose of providing midwifery services.

(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.

2520. (a) (1) The fee to be paid upon the filing of a license application shall be fixed by the board at not less than seventy-five dollars ($75) nor more than three hundred dollars ($300).

(2) The fee for renewal of the midwife license shall be fixed by the board at not less than fifty dollars ($50) nor more than two hundred dollars ($200).

(3) The delinquency fee for renewal of the midwife license shall be 50 percent of the renewal fee in effect on the date of the renewal of the license, but not less than twenty-five dollars ($25) nor more than fifty dollars ($50).

(4) The fee to be paid for the licensing examination shall be fixed by the board at not less than two hundred dollars ($200) nor more than three hundred fifty dollars ($350).

(b) The fees prescribed by this article shall be deposited in the Licensed Midwifery Fund, which is hereby established, and shall be available, upon appropriation, to the board for the purposes of this article.

2521. Any person who violates this article is guilty of a misdemeanor.

SEC. 4. Section 10354 is added to the Insurance Code, to read:

10354. (a) (1) Every policy of disability insurance issued, amended, or renewed on or after January 1, 1994, that offers coverage for perinatal services shall contain a provision for direct reimbursement to licensed midwives for perinatal services rendered under terms and conditions as may be agreed upon between the policyholder and the insurer.

(2) The licensed midwife may collect payment for any unpaid portion of his or her fee, as provided under the policy for other providers.

(3) Reasonable consideration shall be given to licensed midwives by disability insurers contracting for services at alternative rates. For the purposes of this section, "reasonable consideration" shall have the meaning provided in Section 10180.

(b) For purposes of this section, "direct reimbursement" means that after the policyholder files a claim for the perinatal service provided under those terms and conditions as may be agreed upon between the policyholder and the insurer, the insurer pays the licensed midwife directly.

SEC. 5. Section 11512.07 of the Insurance Code is amended to read:

11512.07. (a) (1) Every nonprofit hospital service plan contract issued, amended, or renewed on or after January 1, 1992, that offers coverage for perinatal services shall contain a provision providing for direct reimbursement to certified nurse-midwives and nurse

practitioners for perinatal services.

(2) Every nonprofit hospital service plan contract issued, amended, or renewed on or after January 1, 1994, that offers coverage for perinatal services shall contain a provision providing for direct reimbursement to licensed midwives for perinatal services.

(3) The certified nurse-midwife, licensed midwife, or nurse practitioner may collect payment for any unpaid portion of his or her fee as provided for under the plan for other providers.

(b) For purposes of this section, "direct reimbursement" means that after the enrollee files a claim for the perinatal service provided by the certified nurse-midwife or nurse practitioner, the plan pays the certified nurse-midwife or nurse practitioner directly.

(c) This section shall not be construed as requiring payment from individual recipients where prohibited by federal law or the state Medicaid plan.

SEC. 6. Section 14132.39 is added to the Welfare and Institutions Code, to read:

14132.39. Midwifery services provided by a licensed midwife shall be covered under this chapter, to the extent that federal financial participation is available, and, subject to utilization controls.

SEC. 7. The sum of seventy thousand dollars ($70,000) is hereby appropriated from the General Fund to the Licensed Midwifery Fund, for the purposes of this act, which sum shall be a loan to be repaid to the General Fund with interest at the rate earned by moneys invested in the Pooled Money Investment Account. The entire sum plus interest shall be repaid by January 1, 1999.

All moneys repaid shall be from funds collected pursuant to the Licensed Midwifery Practice Act of 1993.

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 1281

An act to add and repeal Section 2884.3 of the Public Utilities Code, relating to telecommunications.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. The Legislature finds and declares:

(a) Development of an advanced public telecommunications infrastructure in California is in the public interest. To a large extent, this infrastructure will likely be developed based on the demands of the marketplace.

(b) California's public schools, libraries, and similar facilities are in serious financial distress. Current funding mechanisms may not provide them with the funds needed to construct the infrastructure necessary to take advantage of telecommunications technologies and services, to purchase those services, or to provide the education, training, and information to the people they are intended to serve. Market forces may not fully allow these institutions to meet those needs.

(c) It is in the public interest to determine where public intervention is necessary, in conjunction with market forces, to ensure that California best benefits from telecommunications infrastructure advances.

(d) A California telecommunications task force, made up of representatives of various sectors of the telecommunications industry and other related parties, would play an important role in helping the participants reach consensus on methods to improve California's telecommunications infrastructure and to coordinate those efforts.

(e) It is in the public interest to devise and implement a way to bring appropriate communications technologies and services to institutions such as public schools, libraries, and community centers.

(f) The Public Utilities Commission, working with the infrastructure task force, is the agency best situated to coordinate a program to meet those needs. The commission has already undertaken a study of California's telecommunications infrastructure and the infrastructure task force is not intended to duplicate or substantially overlap the commission's study.

SEC. 2. Section 2884.3 is added to the Public Utilities Code, to read:

2884.3. (a) The commission shall establish a task force on telecommunications network infrastructure. The task force shall be chaired by the commission or its designee, and shall include wide representation from the telecommunications industry, ratepayer protection groups, and educational and other relevant interests.

(b) Under the direction of the commission or its designee, the task force shall consider telecommunications network infrastructure issues that may include:

(1) Ways to promote the lowest cost, most efficient alternatives for infrastructure development.

(2) Ways to ensure that the financial costs and risks imposed on residential and small business customers are commensurate with the benefits they receive from infrastructure development.

(3) Ways to expand universal service opportunities as part of an infrastructure development program.

(4) Ways to promote coordination and cooperation among telecommunication infrastructure providers.

(5) Ways to encourage telecommunications companies to invest in infrastructure in order to enhance the competitiveness of the state while fully complying with commission procompetitive policies, including unbundling, imputation, and nondiscriminatory access.

(6) Ways to address the requirements of institutions such as public schools, libraries, and community centers for improved telecommunications technologies and services, to be considered in consultation with established organizations addressing similar topics.

(c) In establishing an agenda for the task force, the commission or its designee shall give priority to the issues delineated in paragraph (6).

(d) The task force shall report to the Legislature by December 31, 1994.

SEC. 3. This act 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.

CHAPTER 1282

An act to amend Sections 16000 and 16100 of the Business and Professions Code, to amend Section 37101 of the Government Code, and to amend the heading of Chapter 1.5 (commencing with Section 7284) of Part 1.7 of Division 2 of, and to add Section 7284.1 to, the Revenue and Taxation Code, relating to local government finance.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 16000 of the Business and Professions Code is amended to read:

16000. (a) The legislative body of an incorporated city may, in the exercise of its police power, and for the purpose of regulation, as herein provided, and not otherwise, license any kind of business not prohibited by law transacted and carried on within the limits of its

jurisdiction, including all shows, exhibitions and lawful games, and may fix the rates of the license fee and provide for its collection by suit or otherwise. Any legislative body, including the legislative body of a charter city, that fixes the rate of license fees pursuant to this subdivision upon a business operating both within and outside the legislative body's taxing jurisdiction, shall levy the license fee so that the measure of the fee fairly reflects that proportion of the activity actually carried on within the taxing jurisdiction.

(b) No license fee levied pursuant to subdivision (a) that is measured by the licensee's income or gross receipts, whether levied by a charter or general law city, shall apply to any nonprofit organization that is exempted from taxes by Chapter 4 (commencing with Section 23701) of Part 11 of Division 2 of the Revenue and Taxation Code or Subchapter F (commencing with Section 501) of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986, or the successor of either, or to any minister, clergyman, Christian Science practitioner, rabbi, or priest of any religious organization that has been granted an exemption from federal income tax by the United States Commissioner of Internal Revenue as an organization described in Section 501(c)(3) of the Internal Revenue Code or a successor to that section.

SEC. 2. Section 16100 of the Business and Professions Code is amended to read:

16100. (a) The board of supervisors may in the exercise of its police powers, and for the purpose of regulation, as herein provided, and not otherwise, license any kind of business not prohibited by law, transacted and carried on within the limits of its jurisdiction, including all shows, exhibitions, and lawful games, and may fix the rate of the license fee and provide for its collection by suit or otherwise.

(b) No license fee levied pursuant to subdivision (a) that is measured by the licensee's income or gross receipts, whether levied by a charter or general law county, shall apply to any nonprofit organization that is exempted from taxes by Chapter 4 (commencing with Section 23701) of Part 11 of Division 2 of the Revenue and Taxation Code or Subchapter F (commencing with Section 501) of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986, or the successor of either, or to any minister, clergyman, Christian Science practitioner, rabbi, or priest of any religious organization that has been granted an exemption from federal income tax by the United States Commissioner of Internal Revenue as an organization described in Section 501(c)(3) of the Internal Revenue Code or a successor to that section.

SEC. 3. Section 37101 of the Government Code is amended to read:

37101. (a) The legislative body may license, for revenue and regulation, and fix the license tax upon, every kind of lawful business transacted in the city, including shows, exhibitions, and games. It may provide for collection of the license tax by suit or otherwise. If

the legislative body levies a sales tax under the authority of this section, it may impose a complementary tax at the same rate upon use or other consumption of tangible personal property.

If the legislative body imposes a sales or use tax, it shall do so in the same manner and use the same tax base as prescribed in Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code.

(b) Any legislative body, including the legislative body of a charter city, that levies a license tax pursuant to subdivision (a) upon a business operating both within and outside the legislative body's taxing jurisdiction, shall levy the tax so that the measure of tax fairly reflects that proportion of the taxed activity actually carried on within the taxing jurisdiction.

(c) No license tax levied pursuant to subdivision (a) that is measured by the licensee's income or gross receipts, whether levied by a charter or general law city, shall apply to any nonprofit organization that is exempted from taxes by Chapter 4 (commencing with Section 23701) of Part 11 of Division 2 of the Revenue and Taxation Code or Subchapter F (commencing with Section 501) of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986, or the successor of either, or to any minister, clergyman, Christian Science practitioner, rabbi, or priest of any religious organization that has been granted an exemption from federal income tax by the United States Commissioner of Internal Revenue as an organization described in Section 501(c)(3) of the Internal Revenue Code or a successor to that section.

SEC. 4. The heading of Chapter 1.5 (commencing with Section 7284) of Part 1.7 of Division 2 of the Revenue and Taxation Code is amended to read:

CHAPTER 1.5. LOCAL AGENCY LEVY POWERS AND LIMITATIONS

SEC. 5. Section 7284.1 is added to the Revenue and Taxation Code, to read:

7284.1. No license tax or fee levied by a charter or general law county, city and county, or city, or by a district or any other local agency, that is measured by the licensee's income or gross receipts, shall apply to any nonprofit organization that is exempted from taxes by Chapter 4 (commencing with Section 23701) of Part 11 of Division 2 of the Revenue and Taxation Code or Subchapter F (commencing with Section 501) of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986, or the successor of either, or to any minister, clergyman, Christian Science practitioner, rabbi, or priest of any religious organization that has been granted an exemption from federal income tax by the United States Commissioner of Internal Revenue as an organization described in Section 501(c)(3) of the Internal Revenue Code or a successor to that section.

SEC. 6. This act shall not become operative unless Senate Constitutional Amendment 15 of the 1993–94 Regular Session is

approved by the voters, and, in that event, shall become operative on the same date as that measure.

CHAPTER 1283

An act to amend Sections 25160, 25186.1, 25356.1, 25358.1, 25359.2, and 25367 of, and to add Section 25357.5 to, the Health and Safety Code, and to amend Section 44100 of the Public Resources Code, relating to environmental protection.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 25160 of the Health and Safety Code is amended to read:

25160. (a) For purposes of this chapter, "manifest" means a shipping document originated and signed by a generator of hazardous waste which contains all of the information required by the department and which complies with all applicable federal and state regulations.

(b) (1) Any person generating hazardous waste which is transported, or submitted for transportation, for offsite handling, treatment, storage, disposal, or any combination thereof, shall complete a manifest prior to the time the waste is transported or offered for transportation, and shall designate on that manifest the facility to which the waste is to be shipped for the handling, treatment, storage, disposal, or combination thereof. The manifest shall be completed, as required by the department. The generator shall provide the manifest to the person who will transport the hazardous waste, who is the driver, if the hazardous waste will be transported by vehicle, or the person designated by the railroad corporation or vessel operator, if the hazardous waste will be transported by rail or vessel. The generator shall use the standard California Uniform Hazardous Waste Manifest supplied by the department for all shipments of hazardous waste for which a manifest is required, except as provided in paragraph (2). A manifest shall only be used for the purposes specified in this chapter, including, but not limited to, identifying materials which the person completing the manifest reasonably believes are hazardous waste. Within 30 days after transporting hazardous waste, or submitting hazardous waste for transport, each generator of that hazardous waste shall submit to the department a legible copy of each manifest used. The copy submitted to the department shall contain the signatures of the generator and the transporter.

(2) Any person generating hazardous waste which is transported, or submitted for transportation, for offsite handling, treatment,

storage, disposal, or any combination thereof, outside of the state, shall complete, whether or not the waste is determined to be hazardous by the importing country or state, a standard California Uniform Hazardous Waste Manifest, or the generator shall complete, in its own form of manifest, the manifest required by the receiving state and shall submit a copy of that manifest to the department within 30 days of the transport, or submission for transport, of the hazardous waste.

(3) Within 30 days after transporting hazardous waste, or submitting hazardous waste, for transport out of state, each generator of that hazardous waste shall submit to the department a legible copy of each manifest used. The copy submitted to the department shall contain the signatures of the generator, all transporters, excepting intermediate rail transporters, and the out-of-state facility operator. If within 35 days after the initial shipment, or for exports by water to foreign countries, 60 days after the initial shipment, the generator has not received a copy of the manifest signed by all transporters and the facility operator, the generator shall contact the owner or operator of the designated facility to determine the status of the hazardous waste and to request that the owner or operator immediately provide a signed copy of the manifest to the generator. If within 45 days after the initial shipment or, for exports by water to foreign countries, 90 days after the initial shipment, the generator has not received a copy of the signed manifest from the facility owner or operator, the generator shall submit an exception report to the department.

(c) (1) The department shall determine the form and manner in which a manifest shall be completed and the information that the manifest shall contain. The form of each manifest and the information requested on each manifest shall be the same for all hazardous wastes, regardless of whether the hazardous wastes are also regulated pursuant to the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Sec. 6901 et seq.), or by regulations adopted by the United States Department of Transportation. However, the form of the manifest and the information required shall be consistent with federal regulations.

(2) Pursuant to federal regulations, the department may require information on the manifest in addition to the information required by federal regulations, including, but not limited to, the number of the vehicle which will transport the hazardous waste, as specified in the certificate of compliance issued pursuant to Section 25168.3.

(d) (1) Any person who transports hazardous waste in a vehicle shall have a manifest in his or her possession while transporting the hazardous waste. The manifest shall be shown upon demand to any representative of the department, any officer of the California Highway Patrol, any local health officer, or any local public officer designated by the director. If the hazardous waste is transported by rail or vessel, the railroad corporation or vessel operator shall comply with Subchapter C (commencing with Section 171.1) of Chapter 1

of Subtitle B of Title 49 of the Code of Federal Regulations and shall also enter on the shipping papers any information concerning the hazardous waste which the department may require.

(2) Any person who transports any waste, as defined by Section 25124, and who is provided with a manifest for that waste shall, while transporting that waste, comply with all requirements of this chapter, and the regulations adopted pursuant thereto, concerning the transportation of hazardous waste.

(3) Any person who transports hazardous waste shall transfer a copy of the manifest to the facility operator at the time of delivery, or to the person who will subsequently transport the hazardous waste in a vehicle. Any person who transports hazardous waste and then transfers custody of that hazardous waste to a person who will subsequently transport that waste by rail or vessel shall transfer a copy of the manifest to the person designated by the railroad corporation or vessel operator, as specified by Subchapter C (commencing with Section 171.1) of Chapter 1 of Subtitle B of Title 49 of the Code of Federal Regulations.

(4) Any person transporting hazardous waste by motor vehicle, rail, or water shall certify to the department, at the time of initial registration and at the time of renewal of that registration pursuant to this article, that the transporter is familiar with the requirements of this section, the department regulations, and federal laws and regulations governing the use of manifests.

(e) (1) Any facility operator in the state who receives hazardous waste for handling, treatment, storage, disposal, or any combination thereof, which was transported with a manifest pursuant to this section, shall submit a copy of the manifest to the department within 30 days after receiving the hazardous waste. The copy submitted to the department shall contain the signatures of the generator, all transporters, excepting intermediate rail transporters, and the facility operator. In instances where the generator or transporter is not required by the generator's state or federal law to sign the manifest, the facility operator shall require the generator and all transporters, excepting intermediate rail transporters, to sign the manifest before accepting the waste at any facility in this state.

(2) Any treatment, storage, or disposal facility receiving hazardous waste generated outside this state, may only accept the waste for treatment, storage, disposal, or any combination thereof, if the waste is accompanied by a completed standard California Uniform Hazardous Waste Manifest.

SEC. 2. Section 25186.1 of the Health and Safety Code is amended to read:

25186.1. (a) Except as specified in Section 25186.2, proceedings for the suspension or revocation of a permit, registration, or certificate under this chapter 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 the powers granted by those provisions. In the event of a conflict

between this chapter and the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the provisions of the Government Code shall prevail.

(b) Proceedings to determine whether to grant, issue, modify, or deny a permit, registration, or certificate shall be conducted in accordance with the regulations adopted by the department.

SEC. 3. Section 25356.1 of the Health and Safety Code is amended to read:

25356.1. (a) For purposes of this section, "regional board" means a California regional water quality control board and "state board" means the State Water Resources Control Board.

(b) Except as provided in subdivision (h), the department, or, if appropriate, the regional board shall prepare or approve remedial action plans for all sites listed pursuant to Section 25356.

(c) A potentially responsible party may request the department or the regional board, when appropriate, to prepare or approve a remedial action plan for any site not listed pursuant to Section 25356, if the department or the regional board determines that a removal or remedial action is required to respond to a release of a hazardous substance. The department or the regional board shall respond to a request to prepare or approve a remedial action plan within 90 days of receipt. This subdivision does not affect the authority of any regional board to issue and enforce a cleanup and abatement order pursuant to Section 13304 of the Water Code or a cease and desist order pursuant to Section 13301 of the Water Code.

(d) All remedial action plans prepared or approved pursuant to this section shall be based upon Section 25350, Subpart F of the National Oil and Hazardous Substances Pollution Contingency Plan (40 C.F.R. 300.61 et seq.), and any amendments thereto, and upon all of the following factors, to the extent that these factors are consistent with these federal regulations and do not require a less stringent level of cleanup than these federal regulations:

(1) Health and safety risks posed by the conditions at the site. When considering these risks, the department or the regional board shall consider scientific data and reports which may have a relationship to the site.

(2) The effect of contamination or pollution levels upon present, future, and probable beneficial uses of contaminated, polluted, or threatened resources.

(3) The effect of alternative remedial action measures on the reasonable availability of groundwater resources for present, future, and probable beneficial uses. The department or the regional board shall consider the extent to which remedial action measures are available which use, as a principal element, treatment that significantly reduces the volume, toxicity, or mobility of the hazardous substances, as opposed to remedial actions which do not use this treatment. The department or the regional board shall not select remedial action measures which use offsite transport and

disposal of untreated hazardous substances or contaminated materials if practical and cost-effective treatment technologies are available.

(4) Site specific characteristics, including the potential for offsite migration of hazardous substances, the surface or subsurface soil, and the hydrogeologic conditions, as well as preexisting background contamination levels.

(5) Cost effectiveness of alternative remedial action measures. In evaluating the cost effectiveness of proposed alternative remedial action measures, the department or the regional board shall consider, to the extent possible, the total short-term and long-term costs of these actions and shall use, as a major factor, whether the deferral of a remedial action will result, or is likely to result, in a rapid increase in cost or in the hazard to public health or the environment posed by the site. Land disposal shall not be deemed the most cost-effective measure merely on the basis of lower short-term cost.

(6) The potential environmental impacts of alternative remedial action measures, including, but not limited to, land disposal of the untreated hazardous substances as opposed to treatment of the hazardous substances to remove or reduce its volume, toxicity, or mobility prior to disposal.

(e) A remedial action plan prepared or approved pursuant to this section shall include a statement of reasons setting forth the basis for the removal and remedial actions selected. The statement shall include an evaluation of each proposed alternative submitted to, or prepared by, the department or the regional board for a particular site. The statement shall also include an evaluation of the consistency of the removal and remedial actions proposed by the plan with the federal regulations and factors specified in subdivision (d) and shall set forth the reasons for rejection of alternative removal and remedial actions. The statement shall also include a nonbinding preliminary allocation of responsibility among all identifiable potentially responsible parties at a particular site, including those parties which may have been released, or may otherwise be immune, from liability pursuant to this chapter or any other provision of law. Before adopting a final remedial action plan, the department or the regional board shall prepare or approve a draft remedial action plan and shall do all of the following:

(1) Circulate the draft plan for at least 30 days for public comment.

(2) Notify affected local and state agencies of the removal and remedial actions proposed in the remedial action plan and publish a notice in a newspaper of general circulation in the area affected by the draft remedial action plan. The department or the regional board shall also post notices in the location where the proposed removal or remedial action would be located and shall notify, by direct mailing, the owners of property contiguous to the site addressed by the plan, as shown in the latest equalized assessment roll.

(3) Hold one or more meetings with the lead and responsible

agencies for the removal and remedial actions, the potentially responsible parties for the removal and remedial actions, and the interested public, to provide the public with the information which is necessary to address the issues which concern the public. The information to be provided shall include an assessment of the degree of contamination, the characteristics of the hazardous substances, an estimate of the time required to carry out the removal and remedial actions, and a description of the proposed removal and remedial actions.

(4) Comply with Section 25358.7.

(f) After complying with subdivision (e), the department or the regional board shall review and consider any public comments, and shall revise the draft plan, if appropriate. The department or the regional board shall then issue the final remedial action plan.

(g) (1) A potentially responsible party named in the final remedial action plan issued by the department or the regional board may seek judicial review of the final remedial action plan by filing a petition for writ of mandate pursuant to Section 1085 of the Code of Civil Procedure within 30 days after the final remedial action plan is issued by the department or the regional board. Any other person who has the right to seek judicial review of the final remedial action plan by filing a petition for writ of mandate pursuant to Section 1085 of the Code of Civil Procedure shall do so within one year after the final remedial action plan is issued. No action may be brought by a potentially responsible party to review the final remedial action plan if the petition for writ of mandate is not filed within 30 days of the date that the final remedial action plan was issued. No action may be brought by any other person to review the final remedial action plan if the petition for writ of mandate is not filed within one year of the date that the final remedial action plan was issued. The filing of a petition for writ of mandate to review the final remedial action plan shall not stay any removal or remedial action specified in the final plan.

(2) For purposes of judicial review, the court shall uphold the final remedial action plan if the plan is based upon substantial evidence available to the department or the regional board, as the case may be.

(3) This subdivision does not prohibit the court from granting any appropriate relief within its jurisdiction, including, but not limited to, enjoining the expenditure of funds pursuant to paragraph (2) of subdivision (b) of Section 25385.6.

(h) (1) This section does not require the department or a regional board to prepare a remedial action plan if conditions present at a site present an imminent or substantial endangerment to the public health and safety or to the environment.

(2) A remedial action plan is not required pursuant to subdivision (b) if all of the following apply:

(A) The department, a regional board, or a responsible party takes a removal action at a site listed pursuant to Section 25356 to

prevent, minimize, or mitigate damage that may otherwise result from a release or threatened release of a hazardous substance.

(B) The total cost of the removal action is less than four hundred thousand dollars ($400,000).

(C) The department, after appropriate testing and analysis, determines that the removal action has adequately abated conditions at the site and the site may be removed from the list established pursuant to Section 25356.

(3) A remedial action plan is not required pursuant to subdivision (b) if the site is listed on the National Priority List by the Environmental Protection Agency pursuant to the federal act, if the department or the regional board concurs with the remedy selected by the Environmental Protection Agency's record of decision. The department or the regional board may sign the record of decision issued by the Environmental Protection Agency if the department or the regional board concurs with the remedy selected.

(4) The department may waive the requirement that a remedial action plan meet the requirements specified in subdivision (d) if all of the following apply:

(A) The responsible party adequately characterizes the hazardous substance conditions at a site listed pursuant to Section 25356.

(B) The responsible party submits to the department, in a form acceptable to the department, all of the following:

(i) A description of the techniques and methods to be employed in excavating, storing, handling, transporting, treating, and disposing of materials from the site.

(ii) A listing of the alternative remedial measures which were considered by the responsible party in selecting the proposed removal action.

(iii) A description of methods that will be employed during the removal action to ensure the health and safety of workers and the public during the removal action.

(iv) A description of prior removal actions with similar hazardous substances and with similar public safety and environmental considerations.

(C) The department determines that the remedial action plan provides protection of human health and safety and for the environment at least equivalent to that which would be provided by a remedial action plan prepared in accordance with subdivision (c).

(D) The total cost of the removal action is less than two million dollars ($2,000,000).

(5) For purposes of this section, the cost of a removal action includes the cleanup of removal of released hazardous substances from the environment or the taking of other actions which are necessary to prevent, minimize, or mitigate damage which may otherwise result from a release or threatened release, as further defined by Section 9601 (23) of Title 42 of the United States Code.

(6) Paragraphs (2) and (3) of this subdivision do not apply to a

removal action paid from the Hazardous Substance Cleanup Fund.

(i) Article 2 (commencing with Section 13320), Article 3 (commencing with Section 13330), Article 5 (commencing with Section 13350), and Article 6 (commencing with Section 13360) of Chapter 5 of Division 7 of the Water Code apply to any action or failure to act by a regional board pursuant to this section.

SEC. 4. Section 25357.5 is added to the Health and Safety Code, to read:

25357.5. (a) In any judicial action under this chapter, judicial review of any issues concerning the adequacy of any response action taken or ordered by the department shall be limited to the administrative record. Otherwise applicable principles of administrative law shall govern whether any supplemental materials may be considered by the court.

(b) If the court finds that the selection of the response action was not in accordance with law, the court shall award only the response costs or damages that are not inconsistent with the National Contingency Plan, as specified in Part 300 (commencing with Section 300.1) of Subchapter J of Chapter I of Title 40 of the Code of Federal Regulations, and any other relief that is consistent with the National Contingency Plan.

(c) In reviewing an action brought by the department under this chapter, in which alleged procedural errors by the department are raised as a defense, the court may impose costs or damages only if the errors were serious and related to matters of central relevance to the action, so that the action would have been significantly changed had the errors not been made.

SEC. 5. Section 25358.1 of the Health and Safety Code is amended to read:

25358.1. (a) The department, a representative of the department, or any person designated by the director may take the actions specified in this section only if there is a reasonable basis to believe that there may be a release or threatened release of a hazardous substance, and only for the purpose of determining under this chapter the need for a response action, the choosing or taking of a response action, or otherwise for the purpose of enforcing this chapter.

(b) Any officer or employee of the department, a representative of the director, or a person designated by the director may require any potentially responsible party, or any person who has, or may have, acquired information relevant to any of the following matters in the course of a commercial, ownership, or contractual relationship with any potentially responsible party, to furnish, upon reasonable notice, information or documents relating to the following matters:

(1) The identification, nature, and quantity of materials which have been, or are, generated, treated, stored, or disposed of at a hazardous substance release site or which have been, or are, transported to a hazardous substance release site.

(2) The nature or extent of a release or a threatened release of a

hazardous substance at, or from, a hazardous substance release site.

(c) A person who is required to provide information pursuant to subdivision (b) shall, in accordance with subdivision (h), allow the officer, employee, representative, or designee, upon reasonable notice and at reasonable times, to have access to, and copy, all records relating to the hazardous substances for purposes of assisting the department in determining the need for an action in response to a release or threatened release pursuant to this chapter.

(d) Any officer or employee of the department, representative of the director, or person designated by the director may, in accordance with subdivision (h), enter, at reasonable times, any of the following properties:

(1) Any nonresidential establishment or other place or property where any hazardous substances may be, or have been, produced, stored, treated, disposed of, or transported from.

(2) Any nonresidential establishment or other place or property from which, or to which, a hazardous substance has been, or may have been, released.

(3) Any nonresidential establishment or other place or property where a hazardous substance release is, or may be, threatened.

(4) Any nonresidential establishment or other place or property where entry is needed to determine the need for a response action, or the appropriate remedial action, to effectuate a response action under this chapter.

(5) Any residential place or property which, if it were a nonresidential establishment or other place or property, would otherwise meet the criteria described in paragraphs (1) to (4), inclusive, if the department, representative, or person designated by the director is able to establish, based upon reasonably available evidence, that hazardous substances have been released onto or under the residential place or real property and if entry is made only at reasonable times and after reasonable notification to the owners and occupants.

(e) Any officer or employee of the department, representative of the director, or person designated by the director may, in accordance with subdivision (h), carry out any of the following activities:

(1) Inspect and obtain samples from any establishment or other place or property specified in subdivision (d) or from any location of any suspected hazardous substance.

(2) Inspect and obtain samples of any substances from any establishment or place or property specified in subdivision (d).

(3) Inspect and obtain samples of any containers or labeling for the suspected hazardous substances, and samples of the soil, vegetation, air, water, and biota on the premises.

(4) Set up and maintain monitoring equipment for the purpose of assessing or measuring the actual or potential migration of hazardous substances.

(5) Survey and determine the topographic, geologic, and hydrogeologic features of the land.

(6) Photograph any equipment, sample, activity, or environmental condition described in paragraphs (2) to (5) inclusive.

(f) (1) If photographs are to be taken pursuant to paragraph (6) of subdivision (e), the department shall do all of the following:

(A) Comply with all procedures established pursuant to subdivision (b) of Section 25358.2.

(B) Notify the person whose facility is photographed prior to public disclosure of the photographs.

(C) Upon the request of the person owning the facility, submit a copy of any photograph to the person for the purpose of determining whether trade secret information, as defined in Section 25358.2, or facility security, would be revealed by the photograph.

(2) "Disclosure," as used in Section 25358.2, for purposes of this paragraph, does not include the review of the photograph by a court of competent jurisdiction or by an administrative law judge. A court or judge may review the photograph in camera.

(g) An officer, employee, representative, or designee who enters a place, establishment, or property pursuant to this section shall make a reasonable effort to inform the owner or the owners' authorized representative of the inspection and shall provide split samples to the owner or the representative upon request.

(h) If the owner or the owner's authorized representative does not voluntarily grant access to a place, establishment, or property pursuant to this section, the officer, employee, representative, or designee shall first obtain a warrant pursuant to Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure. However, if there is an emergency posing an immediate threat to public health and safety, the officer, employee, representative, or designee may enter the place, establishment, or property without the consent of the owner or owner's authorized representative and without the issuance of a warrant.

(i) The department, and any person authorized by the department to enter upon any lands for the purpose of taking removal or remedial action pursuant to this chapter, shall not be held liable, in either a civil or criminal proceeding, for trespass or for any other acts which are necessary to carry out the corrective action.

SEC. 6. Section 25359.2 of the Health and Safety Code is amended to read:

25359.2. Any person subject to a removal or remedial action order or other order issued pursuant to Section 25355.5 or 25358.3 who does not comply with that order without sufficient cause shall be subject to a civil penalty of not more than twenty-five thousand dollars ($25,000) for each day of noncompliance. Liability under this section may be imposed in a civil action or liability may be imposed administratively pursuant to Section 25359.3.

SEC. 7. Section 25367 of the Health and Safety Code is amended to read:

25367. Any person who commits any of the following acts shall be

liable for a civil penalty not to exceed twenty-five thousand dollars ($25,000) for each separate violation, or for continuing violations, for each day during which that violation continues:

(a) Intentionally makes any false statement or representation in any report or information furnished pursuant to Section 25358.1.

(b) Intentionally fails to provide any information requested pursuant to Section 25358.1.

(c) Refuses or prevents, without sufficient cause, any activity authorized pursuant to Section 25358.1 or 25358.3.

SEC. 8. Section 44100 of the Public Resources Code is amended to read:

44100. (a) The enforcement agency, in issuing or reviewing any solid waste facilities permit or in connection with any action relating thereto or authorized by this division, may investigate the operation by any person of a transfer or processing station, disposal site, collection or handling equipment, or storage area for solid wastes.

(b) In the investigation, the enforcement agency may require any person, who is, or proposes to become, an operator of a transfer or processing station, disposal site, collection or handling equipment, or storage area for solid wastes, or any person which the enforcement agency believes may have information concerning a suspected violation of this division, to furnish, under penalty of perjury, any nonprivileged technical or monitoring program or other reports that the enforcement agency may specify.

CHAPTER 1284

An act to add Section 8589.2 to the Government Code, relating to hazardous materials.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 8589.2 is added to the Government Code, to read:

8589.2. The Office of Emergency Services, in consultation with the California Highway Patrol and other state and local agencies, shall establish a statewide plan for the delivery of hazardous material mutual aid.

Within 180 days of the adoption of a plan by the Office of Emergency Services, an entity will only be considered a candidate for training or equipment funds provided by the state for hazardous material emergency response when that entity is a signatory to the plan established under this section.

(a) For the purpose of this chapter "hazardous material emergency response" includes, but is not limited to, assessment,

isolation, stabilization, containment, removal, evacuation, neutralization, transportation, rescue procedures, or other activities necessary to ensure the public safety during a hazardous materials emergency.

(b) For the purpose of this chapter, "hazardous material" will be defined as in Section 25501 of the Health and Safety Code.

(c) Entities providing hazardous material emergency response services under this chapter shall be exempt from the fee restriction of Section 6103.

CHAPTER 1285

An act to add Section 24070.2 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 24070.2 is added to the Business and Professions Code, to read:

24070.2. Notwithstanding subdivision (a) of Section 24070, any off-sale general license issued prior to April 29, 1992, and located within the boundaries of the United States Bureau of the Census census tracts 234000, 234200, 234300, 234500, 234600, 234700, 234800, 234900, 235100, 235201, 235202, 236100, 236201, 236202, 236400, 231100, 231500, 231600, 231700, 231800, 231900, 232100, 232200, 232300, 232400, 232500, 232600, 232700, 232800, 237100, 237200, 237300, 237400, 237500, 237600, 237700, 237800, 237900, 238000, 238100, 238200, 238300, 238400, 240300, 240400, 241200, 241300, 600100, 600201, 600202, 600301, 600302, 600400, 602700, 602800, 602900, 603002, 228100, 228200, 228300, 228400, 228500, 228600, 228700, 228800, 228900, 229100, 229200, 229300, 229400, 239200, 239300, 239500, 239600, 239700, 239800, 242000, 242100, 242200, 242300, 242600, 242700, 243000, 243100, 535400, 240000, 240200, 240500, 240600, 240700, 240800, 240900, 241000, 241100, 241400, 532700, 532800, 532900, 533000, 534900, 535000, 535101, 535102, 535200, 535300, 535400, 541100, 541200, 541300, 541400, 541601, 541602, 541800, 542000, 542101, 542102, 542200, 542401, 542402, 542500, 542600, 542700, 542800, 542900, 543000, 543100, 543200, 543301, 543321, and 570400 located within Los Angeles County may be transferred from that county to another county without regard to the limitations imposed by Section 24070. Notwithstanding the fee provisions of Section 24072, the fee for a transfer of a license pursuant to this section shall be one hundred dollars ($100).

CHAPTER 1286

An act to amend Sections 33503, 33507, and 33702 of, and to add Section 33502.5 to, the Public Resources Code, to add Section 5065 to the Vehicle Code, and to amend Section 13 of Chapter 676 of the Statutes of 1992, relating to open-space and recreational lands.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 33502.5 is added to the Public Resources Code, to read:

33502.5. Notwithstanding Section 33502, the incorporated areas of the Cities of Coachella and Indio, as they exist on January 1, 1994, are excluded from the territory of the conservancy.

SEC. 2. Section 33503 of the Public Resources Code is amended to read:

33503. (a) The governing board of the conservancy consists of the following 19 voting members:

(1) The mayor or a member of the city council of each of the Cities of Cathedral City, Desert Hot Springs, Indian Wells, La Quinta, Palm Desert, Palm Springs, and Rancho Mirage, appointed by a majority of the membership of the respective city council of each city.

(2) The Chairperson of the Tribal Council of the Agua Caliente Band of Cahuilla Indians.

(3) Two members of the Board of Supervisors of the County of Riverside, appointed by a majority of the membership of the board of supervisors.

(4) Three members chosen from the general public who reside within the conservancy's territory, one of whom shall be appointed by the Governor, one of whom shall be appointed by the Senate Committee on Rules, and one of whom shall be appointed by the Speaker of the Assembly.

(5) The Director of Fish and Game.

(6) The Executive Director of the Wildlife Conservation Board.

(7) The Director of Parks and Recreation.

(8) The Vice President, Division of Agriculture and Natural Resources, of the University of California.

(9) The State Director for California of the United States Bureau of Land Management.

(10) The Regional Forester for the Pacific Southwest Region of the United States Forest Service.

(b) Any state or federal official who is a member of the governing board and whose principal office is not within the territory of the conservancy may designate a member of his or her executive staff to vote on his or her behalf and otherwise discharge the duties of a

member of the governing board when the official is not in attendance. Notice of any such designation shall be promptly communicated to the chairperson in writing.

SEC. 3. Section 33507 of the Public Resources Code is amended to read:

33507. Ten members of the governing board shall constitute a quorum, and, except as provided in subdivision (b) of Section 33702, no official action relating to the acquisition of any interest in real property shall be taken by the governing board except in the presence of a quorum and upon the recorded votes of a majority of the voting members of the governing board. Any official action affecting any matter other than relating to the acquisition of any interest in real property shall be taken by the governing board in the presence of a quorum and upon the recorded votes of a majority of the voting members of the governing board who are present and voting. The existence of one or more vacancies among the voting members shall not change the requirements of this section.

SEC. 4. Section 33702 of the Public Resources Code is amended to read:

33702. (a) Except as provided in Section 33701, and subject to Section 33507, the conservancy may acquire any property, and any interest in property, on behalf of itself or a state agency represented on the governing board, within its territory by any means if acquisition of the property is in furtherance of the conservancy's purposes, as set forth in Section 33501. The conservancy shall thereafter hold, manage, maintain, administer, occupy, and care for that property in perpetuity unless a state agency represented on the governing board has administrative jurisdiction over that property or has accepted an assignment of that responsibility from the conservancy or the conservancy has requested that the property be managed by a federal agency represented on the governing board in connection with other property managed by the federal agency. The conservancy shall give primary priority to the acquisition of property, the development of which would have visual impact from the floor of the Coachella Valley, and secondary priority to property, the acquisition of which will preserve wildlife habitat.

(b) (1) Except as provided in paragraph (2), the conservancy shall not sell, exchange, lease, or otherwise dispose of or encumber, any mountainous lands unless authorized by a four-fifths vote of the governing board or a two-thirds vote of the electors residing within the conservancy.

(2) The conservancy may transfer any mountainous lands to another public agency or to any nonprofit organization that has as its primary purpose the preservation, protection, or enhancement of land in its natural, scenic, historic, agricultural, forested, or open-space condition or use, if the transfer is authorized in the presence of a quorum and upon the recorded votes of a majority of the voting members of the governing board, and if the transferee agrees to hold, manage, maintain, administer, occupy, and care for

the property in perpetuity and in furtherance of the conservancy's purposes, as set forth in Section 33501.

(3) Any lease entered into pursuant to this subdivision shall not exceed five years and shall include the express provision that the lease may be terminated at any time that the governing board determines that the land is needed for conservancy purposes.

(c) Notwithstanding subdivision (a) and the requirements specified in subdivision (b), the conservancy may sell, exchange, lease, or otherwise dispose of or encumber, property that is not mountainous land on any terms that are in the best interests of the conservancy.

SEC. 5. Section 5065 is added to the Vehicle Code, to read:

5065. (a) The department, in consultation with the Coachella Valley Mountains Conservancy and the Friends of the Desert Mountains, shall design and make available for issuance special interest license plates in accordance with Section 5060. The license plates shall bear a design depicting one or more significant features or qualities of the desert environment of the Coachella Valley and the surrounding mountain ranges. Notwithstanding subdivision (a) of Section 5060, the license plates may be issued in a combination of numbers or letters, or both, requested by the owner or lessee of the vehicle, subject to Sections 5105 and 5106.

(b) In addition to the regular fees for an original registration, a renewal of registration, or a transfer or substitution of the license plates, the following additional fees shall be paid for the issuance, renewal, transfer, and substitution of the special interest license plates authorized by this section:

(1) For the original issuance of the plates, fifty dollars ($50).

(2) For a renewal of registration with the plates, forty dollars ($40).

(3) For transfer of the plates to another vehicle, fifteen dollars ($15).

(4) For each substitute replacement plate, thirty-five dollars ($35).

(c) After deducting its administrative costs under this section, the department shall deposit the additional revenue derived from the issuance, renewal, transfer, and substitution of the special interest license plates as follows:

(1) One-half in the Coachella Valley Mountains Conservancy Account, which is hereby created in the California Environmental License Plate Fund. The money in the account shall be available for expenditure exclusively by the Coachella Valley Mountains Conservancy pursuant to Division 23.5 (commencing with Section 33500) of the Public Resources Code and, upon appropriation by the Legislature, shall be allocated by the Controller to the conservancy or its successor solely for that purpose.

(2) One-half in the California Environmental License Plate Fund.

SEC. 6. Section 13 of Chapter 676 of the Statutes of 1992 is amended to read:

Sec. 13. Sections 1 to 10, inclusive, of this act shall become operative on January 1, 1994.

SEC. 7. (a) With respect to the approximately 400-acre parcel in the County of Yolo, located just north of State Highway Route 80, the Department of Transportation shall, not later than January 1, 1994, do one of the following:

(1) Transfer the parcel, or lease it for 100 years, for the sum of one dollar ($1), to the Department of Fish and Game, reserving whatever interest may be necessary for future use by the Department of Transportation.

(2) Enter into a cooperative project agreement with the United States Army Corps of Engineers, the Department of Fish and Game, and the Department of Water Resources concerning the parcel.

(b) The conservation values associated with the parcel described in subdivision (a) shall be available to the Department of Transportation for the mitigation of future project impacts, regardless of the disposition of title to the parcel pursuant to this section.

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 1287

An act to amend Section 2207 of the Public Resources Code, relating to surface mining.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 2207 of the Public Resources Code is amended to read:

2207. (a) The owner, lessor, lessee, agent, manager, or other person in charge of any mining operation of whatever kind or character within the state shall forward to the director not later than July 1, 1991, and every year thereafter not later than an anniversary date established by the director, upon forms which will be furnished by the board, a report which identifies all of the following:

(1) The name, address, and telephone number of the person,

company, or other owner of the mining operation.

(2) The name, address, and telephone number of a designated agent who resides in this state, and who will receive and accept service of all orders, notices, and processes of the lead agency, board, director, or court.

(3) The location of the mining operation, its name, its mine number as issued by the Bureau of Mines or the director, its section, township, range, latitude, longitude, and approximate boundaries of the mining operation marked on a United States Geological Survey 7½-minute or 15-minute quadrangle map.

(4) The lead agency.

(5) The approval date of the mining operation's reclamation plan.

(6) The mining operation's status as active, idle, reclaimed, or in the process of being reclaimed.

(7) The commodities produced by the mine and the type of mining operation.

(8) Proof of annual inspection by the lead agency, starting with the 1992 report.

(9) Proof of financial assurances.

(10) Ownership of the property, including government agencies, if applicable, by the assessor's parcel number, and total assessed value of the mining operation.

(11) The approximate permitted size of the mining operation subject to Chapter 9 (commencing with Section 2710), in acres.

(12) The approximate total acreage of land newly disturbed by the mining operation during the previous calendar year.

(13) The approximate total of disturbed acreage reclaimed during the previous calendar year.

(14) The approximate total unreclaimed disturbed acreage remaining as of the end of the calendar year.

(15) The total production for each mineral commodity produced during the previous year.

(16) A copy of any approved reclamation plan and any amendments or conditions of approval to any existing reclamation plan approved by the lead agency.

(b) Every year, not later than the anniversary date established by the director, the person submitting the report pursuant to subdivision (a) shall forward to the lead agency, upon forms which shall be furnished by the board, a report which provides all of the information specified in paragraphs (1) to (14), inclusive, of subdivision (a).

(c) Subsequent reports shall include only changes in the information submitted for the items described in subdivision (a), except that, instead of the approved reclamation plan, the reports shall include any reclamation plan amendments approved during the previous year. The reports shall state whether review of a reclamation plan, financial assurances, or an interim management plan is pending under subdivision (b), (c), (d), or (h) of Section 2770, or whether an appeal before the board or lead agency

governing body is pending under subdivision (e) or (h) of Section 2770. The director shall notify the person submitting the report and the owner's designated agent in writing that the report and the fee required pursuant to subdivision (d) have been received, specify the anniversary date by which the mining operation shall submit reports, specify the mining operation's mine number if one has not been issued by the Bureau of Mines, and notify the person and agent of any deficiencies in the report within 90 days of receipt. That person or agent shall have 30 days from receipt of the notification to correct the noted deficiencies and forward the revised reports to the director and the lead agency. Any person who fails to comply with this section, or knowingly provides incorrect or false information in reports required by this section, may be subject to an administrative penalty as provided in subdivision (c) of Section 2774.1.

(d) (1) The board shall impose, by regulation, pursuant to paragraph (2), an annual reporting fee on, and method for collecting annual fees from, each active or idle mining operation. The maximum fee for any single mining operation shall not exceed two thousand dollars ($2,000) annually and shall not be less than fifty dollars ($50) annually.

(2) The board shall adopt, by emergency regulations, a schedule of fees authorized under paragraph (1) to cover the department's cost in carrying out this section and Chapter 9 (commencing with Section 2710), as reflected in the Governor's Budget. In establishing the schedule of fees to be paid by each active and idle mining operation, the fees shall be calculated on an equitable basis reflecting the size and type of operation. The board shall also consider the total assessed value of the mining operation, the acreage disturbed by mining activities, and the acreage subject to the reclamation plan.

(3) For the 1991–92 fiscal year the total revenue generated by the reporting fees established pursuant to this subdivision shall not exceed, and may be less than, one million one hundred thirty-two thousand dollars ($1,132,000), which shall be adjusted in the 1992–93 and 1993–94 fiscal years to reflect increases in the cost of living, as measured by the California Consumer Price Index for all urban consumers, calendar year averages, using the percentage change in the previous year. Beginning in the 1994–95 fiscal year, and for subsequent fiscal years the total revenue generated by the reporting fees shall not exceed, and may be less than, the amount of one million dollars ($1,000,000), as adjusted for the cost of living beginning with the 1991–92 fiscal year and annually thereafter. If the director determines that the revenue collected during the preceding fiscal year was greater or less than the cost to operate the program, the board shall adjust the fees to compensate for the overcollection or undercollection of revenues.

(4) The emergency regulations adopted pursuant to paragraph (2) shall be adopted by the board in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations is an

emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare.

(5) The reporting fees established pursuant to this subdivision shall be deposited in the Mine Reclamation Account, which is hereby created. Any fees, penalties, interest, fines, or charges collected by the director or board pursuant to this chapter or Chapter 9 (commencing with Section 2710) shall be deposited in the Mine Reclamation Account. The money in the account shall be available to the department and board, upon appropriation by the Legislature, solely to carry out this section and Chapter 9 (commencing with Section 2710), and up to three hundred thousand dollars ($300,000) shall be available to the department upon appropriation by the Legislature to contract for preparation of the report required by Section 2774.6.

(6) In case of late payment of the reporting fee, a penalty of not less than one hundred dollars ($100) or 10 percent of the amount due, whichever is greater, plus interest at the rate of 1½ percent per month, computed from the delinquent date of the assessment until and including the date of payment, shall be assessed. New mining operations which have not submitted a report shall submit a report prior to commencement of operations. The new operation shall submit its fee according to the reasonable fee schedule adopted by the board, and the month that the report is received shall become that operation's anniversary month.

(e) The lead agency may impose a fee upon each mining operation to cover the reasonable costs incurred in implementing this chapter and Chapter 9 (commencing with Section 2710).

(f) For purposes of this section, "mining operation" has the same meaning as "surface mining operation" as defined in Section 2735, unless excepted by Section 2714. For the purposes of fee collections only, "mining operation" may include one or more mines operated by a single operator or mining company on one or more sites, if the total annual combined mineral production for all sites is less than 100 troy ounces for precious metals, if precious metals are the primary mineral commodity produced, or less than 100,000 short tons if the primary mineral commodity produced is not precious metals.

(g) Any information in reports submitted pursuant to subdivision (a) which includes or otherwise indicates the total mineral production, reserves, or rate of depletion of any mining operation shall not be disclosed to any member of the public, as defined in subdivision (f) of Section 6252 of the Government Code. Other portions of the reports are public records unless excepted by statute. Statistical bulletins based on these reports and published under Section 2205 shall be compiled to show, for the state as a whole and separately for each lead agency, the total of each mineral produced therein. In order not to disclose the production, reserves, or rate of depletion from any identifiable mining operation, no production figure shall be published or otherwise disclosed unless that figure is

the aggregated production of not less than three mining operations. If the production figure for any lead agency would disclose the production, reserves, or rate of depletion of less than three mining operations or otherwise permit the reasonable inference of the production, reserves, or rate of depletion of any identifiable mining operation, that figure shall be combined with the same such figure of not less than two other lead agencies without regard to the location of the lead agencies. The bulletin shall be published annually by June 30 or as soon thereafter as practicable.

CHAPTER 1288

An act to add Sections 857 and 858 to the Fish and Game Code, relating to the Department of Fish and Game.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 857 is added to the Fish and Game Code, to read:

857. (a) Notwithstanding any other provision of law, the status of a person as an employee, agent, or licensee of the department does not confer upon that person a special right or privilege to knowingly enter private land without either the consent of the owner or a search warrant, or an inspection warrant.

(b) (1) Subdivision (a) does not apply to employees, agents, or licensees of the department in the event of an emergency. For purposes of this section, "emergency means a sudden, unexpected occurrence, involving a clear and imminent danger demanding immediate action to prevent or mitigate loss of, or damage to, wildlife, wildlife resources, or wildlife habitat."

(2) Subdivision (a) does not apply to a sworn peace officer authorized pursuant to subdivision (f) of Section 830.2 of the Penal Code or, if necessary for law enforcement purposes, to other departmental personnel accompanying a sworn peace officer. Subdivision (a) shall not be construed to define or alter any authority conferred on those peace officers by any other law or court decision.

(3) Subdivision (a) does not apply to, or interfere with, the authority of employees, or licensees to enter and inspect land in conformance with Section 4604 of the Public Resources Code.

This section is not intended to expand or constrain the authority, if any, of employees, agents, or licensees of the department to enter private land to conduct inspections pursuant to Section 7702 of this code or Section 8670.5, 8670.7, or 8670.10 of the Government Code.

(c) If the department conducts a survey or evaluation of private land that results in the preparation of a document or report, the

department shall, upon request and without undue delay, provide either a copy of the report or a written explanation of the department's legal authority for denying the request. The department may charge a fee for each copy, not to exceed the direct costs of duplication.

SEC. 2. Section 858 is added to the Fish and Game Code, to read:

858. (a) The department, in cooperation with landowners and landowner organizations, shall, on or before January 1, 1995, develop a statewide policy and procedure for recording and processing landowner complaints regarding alleged misconduct by personnel of the department and a written protocol that ensures compliance with Section 857.

(b) The department shall, on or before January 1, 1995, designate official fish and game warden emblems and their placement. The department shall prohibit personnel of the department who are not peace officers from wearing any patch, badge, bar, or other indicia of peace officer status. The selection and configuration of official fish and game warden emblems shall be established by the department in cooperation with California game wardens to ensure that the public is readily able to distinguish game wardens from personnel who are not peace officers.

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 1289

An act to amend Section 92032 of the Education Code, and to add Section 11125.7 to the Government Code, relating to open meetings.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 92032 of the Education Code is amended to read:

92032. Notwithstanding any provision of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code:

(a) The Regents of the University of California may, as occasioned

by necessity, hold special meetings. The regents shall give public notice for these meetings. This notice shall be given by means of a notice hand delivered or mailed to each newspaper of general circulation and television or radio station that has requested notice in writing, so that the notice may be published or broadcast at least 72 hours before the time of the meeting. The notice shall specify the time, place, and agenda of the special meeting. The regents shall not consider any business not included in the agenda portion of the notice. Failure to satisfy the provisions of this subdivision shall not be excused by the fact that no action was taken at the special meeting.

(b) The Regents of the University of California may conduct closed sessions when it meets to consider or discuss:

(1) Matters affecting the national security.

(2) The conferring of honorary degrees or other honors or commemorations.

(3) Matters involving gifts, devises, and bequests.

(4) Matters involving the purchase or sale of investments for endowment and pension funds.

(5) Matters involving litigation, when discussion in open session concerning those matters would adversely affect, or be detrimental to, the public interest.

(6) The acquisition or disposition of property, if discussion of these matters in open session could adversely affect the regents' ability to acquire or dispose of the property on the terms and conditions it deems to be in the best public interest.

(7) Matters concerning the appointment, employment, performance, compensation, or dismissal of university officers or employees, excluding individual regents other than the president of the university.

(8) Matters relating to complaints or charges brought against university officers or employees, excluding individual regents other than the president of the university, unless the officer or employee requests a public hearing.

(c) While a witness is being examined during any open or closed session, any or all other witnesses in the investigation may be excluded from the proceedings by the regents.

(d) Committees of the regents may conduct closed sessions on Medi-Cal contract negotiations.

(e) The nominating committee of the regents may conduct closed sessions held for the purpose of proposing officers of the board and members of the board's various committees.

(f) Committees of the regents may conduct closed sessions held for the purpose of proposing a student regent.

(g) The regents shall not be required to give public notice of meetings of special search or selection committees held for the purpose of conducting interviews for university officer positions.

SEC. 2. Section 11125.7 is added to the Government Code, to read:

11125.7. (a) Except as otherwise provided in this section, the

state body shall provide an opportunity for members of the public to directly address the state body on each agenda item before or during the state body's discussion or consideration of the item. This section is not applicable if the agenda item has already been considered by a committee composed exclusively of members of the state body at a public meeting where interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the state body.

(b) The state body may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public comment on particular issues and for each individual speaker.

(c) This section is not applicable to closed sessions held pursuant to Section 11126.

(d) This section is not applicable to decisions regarding proceedings held pursuant to Chapter 5 (commencing with Section 11500), relating to administrative adjudication, or to the conduct of those proceedings.

(e) This section is not applicable to hearings conducted by the State Board of Control pursuant to Sections 13963 and 13963.1.

(f) This section is not applicable to agenda items which involve decisions of the Public Utilities Commission regarding adjudicatory hearings held pursuant to Chapter 9 (commencing with Section 1701) of Part 1 of Division 1 of the Public Utilities Code. For the purposes of this subdivision, "adjudicatory hearing" has the same meaning as defined in subdivision (f) of Section 11500 of the Government Code. For all other agenda items, the commission shall provide members of the public, other than those who have already participated in the proceedings underlying the agenda item, an opportunity to directly address the commission before or during the commission's consideration of the item.

CHAPTER 1290

An act to amend Section 92032 of, and to add Section 92032.5 to, the Education Code, relating to the University of California.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 92032 of the Education Code is amended to read:

92032. Notwithstanding any provision of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of

the Government Code:

(a) The Regents of the University of California may, as occasioned by necessity, hold special meetings. The regents shall give public notice for these meetings. This notice shall be given by means of a notice hand delivered or mailed to any newspaper of general circulation, or any television or radio station, so that the notice may be published or broadcast at least 72 hours before the time of the meeting. The notice shall specify the time, place, and agenda of the special meeting. The regents shall not consider any business not included in the agenda portion of the notice. Failure to satisfy the provisions of this subdivision shall not be excused by the fact that no action was taken at the special meeting.

(b) The Regents of the University of California may conduct closed sessions when they meet to consider or discuss:

(1) Matters affecting the national security.

(2) The conferring of honorary degrees or other honors or commemorations.

(3) Matters involving gifts, devises, and bequests.

(4) Matters involving the purchase or sale of investments for endowment and pension funds.

(5) Matters involving litigation, when discussion in open session concerning those matters would adversely affect, or be detrimental to, the public interest.

(6) The acquisition or disposition of property, if discussion of these matters in open session could adversely affect the regents' ability to acquire or dispose of the property on the terms and conditions they deem to be in the best public interest.

(7) Matters concerning the appointment, employment, performance, compensation, or dismissal of university officers or employees, excluding individual regents other than the president of the university. Consideration of compensation for the principal officers of the regents and the officers of the university, as listed in Figure 9 on page F-37 of the Analysis of the 1993–94 Budget Bill by the Legislative Analyst's office, shall not include action by the regents on compensation proposals. Action by the regents on those proposals shall be only in open session. Compensation for the principal officers of the regents and the officers of the university shall include salary, benefits, perquisites, severance payments (except those made in connection with a dismissal or a litigation settlement), retirement benefits, or any other form of compensation.

(8) Matters relating to complaints or charges brought against university officers or employees, excluding individual regents other than the president of the university, unless the officer or employee requests a public hearing.

(c) While a witness is being examined during any open or closed session, any or all other witnesses in the investigation may be excluded from the proceedings by the regents.

(d) Committees of the regents may conduct closed sessions on Medi-Cal contract negotiations.

(e) The nominating committee of the regents may conduct closed sessions held for the purpose of proposing officers of the board and members of the board's various committees.

(f) Committees of the regents may conduct closed sessions held for the purpose of proposing a student regent.

(g) The regents shall not be required to give public notice of meetings of special search or selection committees held for the purpose of conducting interviews for university officer positions.

SEC. 1.5. Section 92032 of the Education Code is amended to read:

92032. Notwithstanding any provision of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code:

(a) The Regents of the University of California may, as occasioned by necessity, hold special meetings. The regents shall give public notice for these meetings. This notice shall be given by means of a notice hand delivered or mailed to each newspaper of general circulation and television or radio station that has requested notice in writing, so that the notice may be published or broadcast at least 72 hours before the time of the meeting. The notice shall specify the time, place, and agenda of the special meeting. The regents shall not consider any business not included in the agenda portion of the notice. Failure to satisfy the provisions of this subdivision shall not be excused by the fact that no action was taken at the special meeting.

(b) The Regents of the University of California may conduct closed sessions when they meet to consider or discuss:

(1) Matters affecting the national security.

(2) The conferring of honorary degrees or other honors or commemorations.

(3) Matters involving gifts, devises, and bequests.

(4) Matters involving the purchase or sale of investments for endowment and pension funds.

(5) Matters involving litigation, when discussion in open session concerning those matters would adversely affect, or be detrimental to, the public interest.

(6) The acquisition or disposition of property, if discussion of these matters in open session could adversely affect the regents' ability to acquire or dispose of the property on the terms and conditions they deem to be in the best public interest.

(7) Matters concerning the appointment, employment, performance, compensation, or dismissal of university officers or employees, excluding individual regents other than the president of the university. Consideration of compensation for the principal officers of the regents and the officers of the university, as listed in Figure 9 on page F-37 of the Analysis of the 1993–94 Budget Bill by the Legislative Analyst's office, shall not include action by the regents on compensation proposals. Action by the regents on those proposals shall be only in open session. Compensation for the principal officers of the regents and the officers of the university shall

include salary, benefits, perquisites, severance payments (except those made in connection with a dismissal or a litigation settlement), retirement benefits, or any other form of compensation.

(8) Matters relating to complaints or charges brought against university officers or employees, excluding individual regents other than the president of the university, unless the officer or employee requests a public hearing.

(c) While a witness is being examined during any open or closed session, any or all other witnesses in the investigation may be excluded from the proceedings by the regents.

(d) Committees of the regents may conduct closed sessions on Medi-Cal contract negotiations.

(e) The nominating committee of the regents may conduct closed sessions held for the purpose of proposing officers of the board and members of the board's various committees.

(f) Committees of the regents may conduct closed sessions held for the purpose of proposing a student regent.

(g) The regents shall not be required to give public notice of meetings of special search or selection committees held for the purpose of conducting interviews for university officer positions.

SEC. 2. Section 92032.5 is added to the Education Code, to read:

92032.5. (a) It is the intent of the Legislature that no proposal relating to the salary, benefits, perquisites, severance payments (except those made in connection with a dismissal or a litigation settlement), or retirement benefits, or any other form of compensation paid to an officer of the University of California shall become effective unless both of the following occur:

(1) (A) Notice of the meeting at which the proposal is to be considered has been given to each regent.

(B) Information and materials regarding the proposal, including a full disclosure of the fiscal impact, have been made available to each regent in advance of the meeting at which the proposal is to be considered.

(C) The fact that the board of regents intends to vote on a proposal concerning the compensation of an officer has been displayed in the meeting notice made available to the public in accordance with the requirements of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 1 of the Government Code or, in the case of a special meeting, in accordance with subdivision (a) of Section 92032.

(D) The specific proposal has been made available, prior to the commencement of the open session of the regents at which adoption of the proposal is to be considered, to members of the public present at the open session. The proposal shall be acted upon by the regents as the final open session item for action.

(2) The proposal has been approved by the making of a motion and its adoption by a majority vote of the regents present at an open session. Nothing in this section shall preclude in open session the full discussion of the contents of the motion or the reasons why it should

or should not be adopted.

(b) As used in this section, "officer" means each principal officer of the Regents of the University of California and the officers of the university, as listed in Figure 9 on page F-37 of the Analysis of the 1993–94 Budget Bill by the Legislative Analyst's office.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 92032 of the Education Code proposed by both this bill and SB 367. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1994, (2) each bill amends Section 92032 of the Education Code, and (3) this bill is enacted after SB 367, in which case Section 1 of this bill shall not become operative.

CHAPTER 1291

An act to amend Section 1808.4 of the Vehicle Code, relating to vehicles.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 1808.4 of the Vehicle Code is amended to read:

1808.4. (a) The home address of any of the following persons, that appears in any record of the department, is confidential, if the person requests the confidentiality of that information:

(1) Attorney General.

(2) State public defender.

(3) Members of the Legislature.

(4) Judges or court commissioners.

(5) District attorneys.

(6) Public defenders.

(7) Attorneys employed by the Department of Justice, the office of the State Public Defender, or a county office of the district attorney or public defender.

(8) Nonsworn police dispatchers.

(9) Child abuse investigators or social workers, working in child protective services within a social services department.

(10) Active or retired peace officers, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

(11) Employees of the Department of Corrections, the Department of the Youth Authority, or the Prison Industry Authority specified in Sections 20017.77 and 20017.79 of the Government Code.

(12) Nonsworn employees of a police department, county sheriff's office, or federal, state, and local detention facilities, and local juvenile halls, camps, ranches and homes, who submit agency verification that, in the normal course of their employment, they

control or supervise inmates or are required to have a prisoner in their care or custody.

(13) County counsels assigned to child abuse cases.

(14) Investigators employed by the Department of Justice, a county district attorney, or a county public defender.

(15) Members of a city council.

(16) City attorneys and attorneys employed by city attorneys who submit verification from their public employer that they represent the city in matters routinely placing them in contact with persons under investigation for, charged with, or convicted of committing criminal acts.

(17) Members of a board of supervisors.

(18) Federal prosecutors and criminal investigators and National Park Service Rangers working in this state.

(19) The spouse or children of persons listed in this section, regardless of the spouse's or child's place of residence.

(b) The confidential home address of any of the persons listed in subdivision (a) shall not be disclosed to any person, except a court, a law enforcement agency, the State Board of Equalization, or any governmental agency to which, under any provision of law, information is required to be furnished from records maintained by the department.

(c) Any record of the department containing a confidential home address shall be open to public inspection, as provided in Section 1808, if the address is completely obliterated or otherwise removed from the record. The home address shall be withheld from public inspection for three years following termination of office or employment except with respect to retired peace officers, whose home addresses shall be withheld from public inspection permanently upon request of confidentiality at the time the information would otherwise be opened. The department shall inform any person who requests a confidential home address what agency the individual whose address was requested is employed by or the court at which the judge or court commissioner presides.

CHAPTER 1292

An act to amend Section 5220 of the Business and Professions Code, to amend Section 44241 of the Health and Safety Code, and to amend Sections 407, 1808.4, 5004.1, 12500, 12951, 14601.2, 14601.5, 14608, 14609, 22511.55, 22511.6, 23302, and 40202 of, to add Section 5902.5 to, and to repeal Section 24016 of, the Vehicle Code, relating to transportation.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 5220 of the Business and Professions Code is amended to read:

5220. "Primary highway" means any highway, other than an interstate highway, designated as a part of the federal-aid primary system in existence on June 1, 1991, and any highway that is not in that system but which is in the National Highway System.

SEC. 2. Section 44241 of the Health and Safety Code is amended to read:

44241. (a) Fee revenues generated under this chapter in the bay district shall be subvened to the bay district by the Department of Motor Vehicles after deducting its administrative costs pursuant to Section 44229.

(b) Fee revenues generated under this chapter shall be allocated by the bay district to implement the following transportation control projects and programs that are included in the plan adopted pursuant to Sections 40233 and 40717:

(1) The implementation and enforcement of local ridesharing and employer-based trip reduction ordinances and programs.

(2) The purchase or lease of clean fuel buses for school districts and transit operators.

(3) The provision of local feeder bus or shuttle service to rail and ferry stations.

(4) The implementation and maintenance of local arterial traffic management, including, but not limited to, signal timing, transit signal preemption, bus stop relocation and "smart streets."

(5) Implementation of rail-bus integration and regional transit information systems.

(6) Implementation of demonstration projects in telecommuting, congestion pricing of highways, bridges, and public transit, and alternative fuel vehicles.

(7) Implementation of a smoking vehicles program.

(8) Implementation of an automotive buyback scrappage program. The automotive buyback scrappage program shall not be run by a private entity.

(c) Fee revenue generated under this chapter shall be allocated by the district for projects and programs specified in subdivision (b) to cities, counties, the Metropolitan Transportation Commission, transit districts, or any other public agency responsible for implementing one or more of the specified projects or programs. Fee revenues shall not be used for any planning activities that are not directly related to the implementation of a specific project or program.

(d) Not less than 40 percent of fee revenues shall be allocated to the entity or entities designated pursuant to subdivision (e) for

projects and programs in each county within the bay district based upon the county's proportionate share of fee-paid vehicle registration.

(e) In each county, one or more entities may be designated as the overall program manager for the county by resolutions adopted by the county board of supervisors and the city councils of a majority of the cities representing a majority of the population in the incorporated area of the county. The resolution shall specify the terms and conditions for the expenditure of funds. The entities so designated shall be allocated the funds pursuant to subdivision (d) in accordance with the terms and conditions of the resolution.

SEC. 3. Section 407 of the Vehicle Code is amended to read:

407. A "motorized quadricycle" is a four-wheeled device, and a "motorized tricycle" is a three-wheeled device, designed to carry not more than two persons, including the driver, and having either an electric motor or a motor with an automatic transmission developing less than two gross brake horsepower and capable of propelling the device at a maximum speed of not more than 30 miles per hour on level ground. The device shall be utilized only by a person who by reason of physical disability is otherwise unable to move about as a pedestrian or by a senior citizen as defined in Section 13000.

SEC. 4. Section 1808.4 of the Vehicle Code is amended to read:

1808.4. (a) The home address of any of the following persons, that appears in any record of the department, is confidential, if the person requests the confidentiality of that information:

(1) Attorney General.

(2) State public defender.

(3) Members of the Legislature.

(4) Judges or court commissioners.

(5) District attorneys.

(6) Public defenders.

(7) Attorneys employed by the Department of Justice, the office of the State Public Defender, or a county office of the district attorney or public defender.

(8) City attorneys and attorneys who submit verification from their public employer that they represent the city in matters that routinely place them in personal contact with persons under investigation for, charged with, or convicted of committing criminal acts, if those attorneys are employed by city attorneys.

(9) Nonsworn police dispatchers.

(10) Child abuse investigators or social workers, working in child protective services within a social services department.

(11) Active or retired peace officers, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

(12) Employees of the Department of Corrections, the Department of the Youth Authority, or the Prison Industry Authority specified in Sections 20017.77 and 20017.79 of the Government Code.

(13) Nonsworn employees of a city police department, a county sheriff's office, the Department of the California Highway Patrol,

federal, state, and local detention facilities, and local juvenile halls, camps, ranches, and homes, who submit agency verification that, in the normal course of their employment, they control or supervise inmates or are required to have a prisoner in their care or custody.

(14) County counsels assigned to child abuse cases.

(15) Investigators employed by the Department of Justice, a county district attorney, or a county public defender.

(16) The spouse or children of persons listed in this section, regardless of the spouse's or child's place of residence.

(b) The confidential home address of any of the persons listed in subdivision (a) shall not be disclosed to any person, except a court, a law enforcement agency, the State Board of Equalization, or any governmental agency to which, under any provision of law, information is required to be furnished from records maintained by the department.

(c) Any record of the department containing a confidential home address shall be open to public inspection, as provided in Section 1808, if the address is completely obliterated or otherwise removed from the record. The home address shall be withheld from public inspection for three years following termination of office or employment except with respect to retired peace officers, whose home addresses shall be withheld from public inspection permanently upon request of confidentiality at the time the information would otherwise be opened. The department shall inform any person who requests a confidential home address what agency the individual whose address was requested is employed by or the court at which the judge or court commissioner presides.

SEC. 4.5. Section 1808.4 of the Vehicle Code is amended to read:

1808.4. (a) The home address of any of the following persons, that appears in any record of the department, is confidential, if the person requests the confidentiality of that information:

(1) Attorney General.

(2) State public defender.

(3) Members of the Legislature.

(4) Judges or court commissioners.

(5) District attorneys.

(6) Public defenders.

(7) Attorneys employed by the Department of Justice, the office of the State Public Defender, or a county office of the district attorney or public defender.

(8) City attorneys and attorneys who submit verification from their public employer that they represent the city in matters that routinely place them in personal contact with persons under investigation for, charged with, or convicted of, committing criminal acts, if those attorneys are employed by city attorneys.

(9) Nonsworn police dispatchers.

(10) Child abuse investigators or social workers, working in child protective services within a social services department.

(11) Active or retired peace officers, as defined in Chapter 4.5

(commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

(12) Employees of the Department of Corrections, the Department of the Youth Authority, or the Prison Industry Authority specified in Sections 20017.77 and 20017.79 of the Government Code.

(13) Nonsworn employees of a city police department, a county sheriff's office, the Department of the California Highway Patrol, federal, state, and local detention facilities, and local juvenile halls, camps, ranches, and homes, who submit agency verification that, in the normal course of their employment, they control or supervise inmates or are required to have a prisoner in their care or custody.

(14) County counsels assigned to child abuse cases.

(15) Investigators employed by the Department of Justice, a county district attorney, or a county public defender.

(16) Members of a city council.

(17) Members of a board of supervisors.

(18) Federal prosecutors and criminal investigators and National Park Service Rangers working in this state.

(19) The spouse or children of persons listed in this section, regardless of the spouse's or child's place of residence.

(b) The confidential home address of any of the persons listed in subdivision (a) shall not be disclosed to any person, except a court, a law enforcement agency, the State Board of Equalization, or any governmental agency to which, under any provision of law, information is required to be furnished from records maintained by the department.

(c) Any record of the department containing a confidential home address shall be open to public inspection, as provided in Section 1808, if the address is completely obliterated or otherwise removed from the record. The home address shall be withheld from public inspection for three years following termination of office or employment except with respect to retired peace officers, whose home addresses shall be withheld from public inspection permanently upon request of confidentiality at the time the information would otherwise be opened. The department shall inform any person who requests a confidential home address what agency the individual whose address was requested is employed by or the court at which the judge or court commissioner presides.

SEC. 5. Section 5004.1 of the Vehicle Code is amended to read:

5004.1. (a) An owner of any vehicle that is a 1962 or older model year vehicle may, after the requirements for the registration of the vehicle have been complied with and with the approval of the department, utilize license plates of this state with the date of year corresponding to the model year date when the vehicle was manufactured, if the model year date license plate is legible and serviceable, as determined by the department, in lieu of the license plates otherwise required by this code. The department may consult with an organization of old car hobbyists in determining whether the date of year of the license plate to be used corresponds to the model year date when the vehicle was manufactured.

(b) A fee of thirty-five dollars ($35) shall be charged for the application for use of the special plates.

(c) In addition to the regular renewal fee for the vehicle for which the plates are authorized, the applicant for a renewal of the plates shall be charged an additional fee of ten dollars ($10). When payment of a regular vehicle renewal fee is not required by this code, the holder of any license plates with a date corresponding to the model year may retain the plates upon payment of an annual fee of twenty dollars ($20), which shall be due at the expiration of the registration year of the vehicle to which the plate was last assigned under this section.

(d) Whenever any person who has been authorized to utilize the special license plates applies to the department for transfer of the plates to another vehicle, a transfer fee of twelve dollars ($12) shall be charged in addition to all other appropriate fees.

SEC. 6. Section 5902.5 is added to the Vehicle Code, to read:

5902.5. Whenever any application for a registration transaction is filed with the department during the 30 days immediately preceding the date of expiration of registration of the vehicle, the application shall be accompanied by the full renewal fees for the ensuing registration year in addition to any other fees that are due and payable.

SEC. 7. Section 12500 of the Vehicle Code, as amended by Section 17 of Chapter 272 of the Statutes of 1993, is amended to read:

12500. (a) No person shall drive a motor vehicle upon a highway, unless the person then holds a valid driver's license issued under this code, except those persons who are expressly exempted under this code.

(b) No person shall drive any motorcycle, motor-driven cycle, or motorized bicycle upon a highway, unless the person then holds a valid driver's license or endorsement issued under this code for that class, except those persons who are expressly exempted under this code, or those persons specifically authorized to operate motorized bicycles with a valid driver's license of any class, as specified in subdivision (g) of Section 12804.9.

(c) No person shall drive a motor vehicle or combination of vehicles that is not of a type for which the person is licensed.

(d) No person shall drive a motor vehicle in or upon any offstreet parking facility, unless the person then holds a valid driver's license of the appropriate class or certification to operate the vehicle. As used in this subdivision, "offstreet parking facility" means any offstreet facility held open for use by the public for parking vehicles and includes any publicly owned facilities for offstreet parking, and privately owned facilities for offstreet parking where no fee is charged for the privilege to park and which are held open for the common public use of retail customers.

SEC. 8. Section 12951 of the Vehicle Code is amended to read:

12951. (a) The licensee shall have the valid driver's license issued to him or her in his or her immediate possession at all times

when driving a motor vehicle upon a highway.

Any charge under this subdivision shall be dismissed when the person charged produces in court a driver's license duly issued to that person and valid at the time of his or her arrest, except that upon a third or subsequent charge the court in its discretion may dismiss the charge. When a temporary, interim, or duplicate driver's license is produced in court, the charge shall not be dismissed unless the court has been furnished proof by the Department of Motor Vehicles that the temporary, interim, or duplicate license was issued prior to the arrest, that the driving privilege and license had not been suspended or revoked, and that the person was eligible for the temporary, interim, or duplicate license.

(b) The driver of a motor vehicle shall present his or her license for examination upon demand of a peace officer enforcing the provisions of this code.

SEC. 9. Section 14601.2 of the Vehicle Code is amended to read:

14601.2. (a) No person shall drive a motor vehicle at any time when that person's driving privilege is suspended or revoked for a conviction of a violation of Section 23152 or 23153, and when the person so driving has knowledge of the suspension or revocation.

(b) Except in full compliance with the restriction, no person shall drive a motor vehicle at any time when that person's driving privilege is restricted pursuant to Article 2 (commencing with Section 23152) of Chapter 12 of Division 11, and when the person so driving has knowledge of the restriction.

(c) Knowledge of suspension or revocation of the driving privilege shall be presumed if notice has been given by the department to the person and knowledge of restriction of the driving privilege shall be presumed if notice has been given by the court to the person. The presumption established by this subdivision is a presumption affecting the burden of proof.

(d) Any person convicted of a violation of this section shall be punished as follows:

(1) Upon a first conviction, by imprisonment in the county jail for not less than 10 days or more than six months and by a fine of not less than three hundred dollars ($300) or more than one thousand dollars ($1,000), unless the person has been designated an habitual traffic offender under subdivision (b) of Section 23170 or subdivision (b) of Section 23175, in which case the person shall, in addition, be sentenced as provided in paragraph (3) of subdivision (e) of Section 14601.3.

(2) If the offense occurred within five years of a prior offense which resulted in a conviction of a violation of this section or Section 14601 or 14601.1, by imprisonment in the county jail for not less than 30 days or more than one year and by a fine of not less than five hundred dollars ($500) or more than two thousand dollars ($2,000), unless the person has been designated an habitual traffic offender under subdivision (b) of Section 23170 or subdivision (b) of Section 23175, in which case the person shall, in addition, be sentenced as

provided in paragraph (3) of subdivision (e) of Section 14601.3.

(e) If any person is convicted of a first offense under this section and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for at least 10 days.

(f) If the offense occurred within five years of a prior offense which resulted in a conviction of a violation of this section or Section 14601 or 14601.1 and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for at least 30 days.

(g) If any person is convicted of a second or subsequent offense which results in a conviction of this section within seven years, but over five years, of a prior offense which resulted in a conviction of a violation of this section or Section 14601 or 14601.1 and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for at least 10 days.

(h) Nothing in this section prohibits a person who is participating in, or has completed, an alcohol or drug rehabilitation program from driving a motor vehicle, which is owned or utilized by the person's employer, during the course of employment on private property which is owned or utilized by the employer, except an offstreet parking facility as defined in subdivision (c) of Section 12500.

(i) Nothing in this section prohibits a person with a suspended license from driving a motor vehicle when emergency medical service is needed immediately.

SEC. 10. Section 14601.5 of the Vehicle Code is amended to read:

14601.5. (a) No person shall drive a motor vehicle at any time when that person's driving privilege is suspended or revoked pursuant to Section 13353 or 13353.2 and that person has knowledge of the suspension or revocation.

(b) Except in full compliance with the restriction, no person shall drive a motor vehicle at any time when that person's driving privilege is restricted pursuant to Section 13353.6 or 13353.7 and that person has knowledge of the restriction.

(c) Knowledge of suspension, revocation, or restriction of the driving privilege shall be presumed if notice has been given by the department to the person. The presumption established by this subdivision is a presumption affecting the burden of proof.

(d) Any person convicted of a violation of this section shall be punished as follows:

(1) Upon a first conviction, by imprisonment in the county jail for not more than six months or by a fine of not less than three hundred dollars ($300) or more than one thousand dollars ($1,000), or by both that fine and imprisonment.

(2) If the offense occurred within five years of a prior offense which resulted in a conviction for a violation of this section or Section 14601, 14601.1, or 14601.2, by imprisonment in the county jail for not less than 10 days or more than one year, and by a fine of not less than five hundred dollars ($500) or more than two thousand dollars

($2,000).

(e) The court, upon a showing of good cause, may waive the mandatory minimum imprisonment period required by paragraph (2) of subdivision (d). The court shall state its reasons for waiving that requirement on the record at the time of sentencing.

(f) In imposing the minimum fine required by subdivision (d), the court shall take into consideration the defendant's ability to pay the fine and may, in the interest of justice, and for reasons stated in the record, reduce the amount of that minimum fine to less than the amount otherwise imposed.

(g) Nothing in this section prohibits a person who is participating in, or has completed, an alcohol or drug rehabilitation program from driving a motor vehicle, that is owned or utilized by the person's employer, during the course of employment on private property that is owned or utilized by the employer, except an offstreet parking facility as defined in subdivision (c) of Section 12500.

(h) Nothing in this section prohibits a person with a suspended license from driving a motor vehicle when emergency medical service is needed immediately.

SEC. 11. Section 14608 of the Vehicle Code is amended to read:

14608. No person shall rent a motor vehicle to another unless:

(a) The person to whom the vehicle is rented is licensed under this code or is a nonresident who is licensed under the laws of the state or country of his or her residence.

(b) The person renting to another person has inspected the driver's license of the person to whom the vehicle is to be rented and compared the signature thereon with the signature of that person written in his or her presence.

(c) Nothing in this section prohibits a blind or disabled person who is a nondriver from renting a motor vehicle, if both of the following conditions exist at the time of rental:

(1) The blind or disabled person either holds an identification card issued pursuant to this code or is not a resident of this state.

(2) The blind or disabled person has a driver present who is either licensed to drive a vehicle pursuant to this code or is a nonresident licensed to drive a vehicle pursuant to the laws of the state or country of the driver's residence.

SEC. 12. Section 14609 of the Vehicle Code is amended to read:

14609. (a) Every person renting a motor vehicle to another person shall keep a record of the registration number of the motor vehicle rented, the name and address of the person to whom the vehicle is rented, his or her driver's license number, the jurisdiction that issued the driver's license, and the expiration date of the driver's license.

(b) If the person renting the vehicle is a nondriver pursuant to subdivision (c) of Section 14608, the record maintained pursuant to this section shall include the name and address of the person renting the vehicle and, if applicable, his or her identification card number, the jurisdiction that issued the identification card, and the expiration

date of the identification card. The record shall also include the name and address of the licensed driver, his or her driver's license number, and the expiration date of his or her driver's license.

SEC. 13. Section 22511.55 of the Vehicle Code is amended to read:

22511.55. (a) (1) Any disabled person or disabled veteran may apply to the department for the issuance of a distinguishing placard. The placard may be used in lieu of the special identification license plate or plates issued under Section 5007 for parking purposes described in Section 22511.5 when suspended from the rear view mirror or, if there is no rear view mirror, when displayed on the dashboard of a vehicle. It is the intent of the Legislature to encourage the use of these distinguishing placards because they provide law enforcement officers with a more readily recognizable symbol for distinguishing vehicles qualified for the parking privilege. The placard shall be the size and color determined by the department, shall bear the International Symbol of Access adopted pursuant to Section 3 of Public Law 100-641, commonly known as the "wheelchair symbol." The department shall incorporate instructions for the lawful use of a placard, and a summary of the penalties for the unlawful use of a placard, into the identification card issued to the placard owner.

(2) (A) The department may establish procedures for the issuance and renewal of the placards. The placards shall have a fixed expiration date of June 30 every two years. Whenever any application for a placard is submitted to the department on or after January 1 of the year of expiration, the fee shall be for the current and subsequent renewal period.

(B) As used in this section, "year" means the period between the inclusive dates of July 1 through June 30.

(C) Prior to the end of each year, the department shall, for the most current three years available, compare its record of disability placards issued against the records of the Bureau of Vital Statistics of the State Department of Health Services, or its successor, and withhold any renewal notices that otherwise would have been sent, for any placard holders identified as deceased.

(3) The fee for an original application or renewal application is six dollars ($6).

(4) Except as provided in paragraph (5), no person is eligible for more than one placard at any time.

(5) Organizations and agencies involved in the transportation of disabled persons or disabled veterans may apply for a placard for each vehicle used for the purpose of transporting disabled persons or disabled veterans.

(b) Prior to issuing any disabled person or disabled veteran a distinguishing placard, the department may require the applicant to submit a certificate signed by the physician or surgeon substantiating the disability. The disability of any person who has lost, or has lost use of, one or more lower extremities or both hands, or who has significant limitation in the use of lower extremities, may also be

certified by a licensed chiropractor. The blindness of any applicant shall be certified by a licensed physician or surgeon who specializes in diseases of the eye or a licensed optometrist.

(c) Any person who is temporarily disabled for a period of less than six months may apply for a placard as prescribed in subdivision (a).

(d) The distinguishing placard shall, upon the death of the disabled person or disabled veteran, be returned to the department within 60 days or upon the expiration of the vehicle registration, whichever occurs first.

SEC. 14. Section 22511.6 of the Vehicle Code is amended to read:

22511.6. (a) The Department of Motor Vehicles may cancel or revoke a disabled person placard issued pursuant to subdivision (d) of Section 22511.5 in any of the following events:

(1) When the department is satisfied that the placard was fraudulently obtained or erroneously issued.

(2) When the department determines that the required fee has not been paid and the fee is not paid upon reasonable notice and demand.

(3) When the placard could have been refused when last issued or renewed.

(4) When the department determines that the owner of the placard has committed any offense described in Section 4461 or 4463, involving the placard to be canceled or revoked.

(5) When the department determines that the owner of the placard is deceased.

(b) Whenever the Department of Motor Vehicles cancels or revokes a disabled person placard, the owner or person in possession of the placard shall immediately return the placard to the department.

SEC. 15. Section 23302 of the Vehicle Code is amended to read:

23302. It is unlawful for any person to refuse to pay or to evade or attempt to evade the payment of tolls or other charges on any vehicular crossing or toll highway. It is prima facie evidence of a violation of this section for any person to enter upon any vehicular crossing without either lawful money of the United States in his immediate possession in an amount sufficient to pay the prescribed tolls due from such person or an Automatic Vehicle Identification account with a balance sufficient to pay those tolls.

SEC. 16. Section 24016 of the Vehicle Code is repealed.

SEC. 17. Section 40202 of the Vehicle Code is amended to read:

40202. (a) If a vehicle is unattended during the time of the violation, the peace officer or person authorized to enforce parking laws and regulations shall securely attach to the vehicle a notice of parking violation setting forth the violation, including reference to the section of this code or of the Public Resources Code, the local ordinance, or the federal statute or regulation so violated; the approximate time thereof; the location where the violation occurred; and the time and procedure for the registered owner, lessee, or

rentee to deposit the parking penalty or, pursuant to Section 40215, contest the citation. The notice of parking violation shall also set forth the vehicle license number and registration expiration date if they are visible, the last four digits of the vehicle identification number, if that number is visible through the windshield, the color of the vehicle, and, if possible, the make of the vehicle. The notice of parking violation, or copy thereof, shall be considered a record kept in the ordinary course of business of the issuing agency and the processing agency and shall be prima facie evidence of the facts contained therein.

(b) The notice of parking violation shall be served by attaching it to the vehicle either under the windshield wiper or in another conspicuous place upon the vehicle so as to be easily observed by the person in charge of the vehicle upon the return of that person.

(c) Once the issuing officer has prepared the notice of parking violation and has attached it to the vehicle as provided in subdivisions (a) and (b), the officer shall file the notice with the processing agency. Any person, including the issuing officer and any member of the officer's department or agency, or any peace officer who alters, conceals, modifies, nullifies, or destroys, or causes to be altered, concealed, modified, nullified, or destroyed the face of the remaining original or any copy of a citation that was retained by the officer, for any reason, before it is filed with the processing agency or with a person authorized to receive the deposit of the parking penalty, is guilty of a misdemeanor.

(d) If, during the issuance of a notice of parking violation, without regard to whether the vehicle was initially attended or unattended, the vehicle is driven away prior to attaching the notice to the vehicle, the issuing officer shall file the notice with the processing agency. The processing agency shall mail, within 15 days of issuance of the notice of parking violation, a copy of the notice of parking violation to the registered owner.

(e) If, after a copy of the notice of parking violation is attached to the vehicle, the issuing officer determines that, in the interest of justice, the notice of parking violation should be canceled, the issuing agency may recommend, in writing, that the charges be canceled. The recommendation shall cite the reasons for the recommendation and shall be filed with the processing agency.

(f) If the processing agency makes a finding that there are grounds for cancellation, the finding shall be entered on the record and the notice of parking violation shall be canceled pursuant to paragraph (1) of subdivision (a) of Section 40215.

(g) Under no circumstances shall a personal relationship with any officer, public official, or law enforcement agency be grounds for cancellation.

SEC. 18. Section 4.5 of this bill incorporates amendments to Section 1808.4 of the Vehicle Code proposed by this bill and AB 2367. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, (2) each bill amends

Section 1808.4 of the Vehicle Code, and (3) this bill is enacted after AB 2367, in which case Section 1808.4 of the Vehicle Code, as amended by AB 2367, shall remain operative only until the operative date of this bill, at which time Section 4.5 of this bill shall become operative, and Section 4 of this bill shall not become operative.

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.

CHAPTER 1293

An act to amend Section 44241 of, and to add and repeal Section 44246 of, the Health and Safety Code, relating to air pollution.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 44241 of the Health and Safety Code is amended to read:

44241. (a) Fee revenues generated under this chapter in the bay district shall be subvened to the bay district by the Department of Motor Vehicles after deducting its administrative costs pursuant to Section 44229.

(b) Fee revenues generated under this chapter shall be allocated by the bay district to implement the following transportation control projects and programs that are included in the plan adopted pursuant to Sections 40233 and 40717:

(1) The implementation and enforcement of local ridesharing and employer-based trip reduction ordinances and programs. As used in this paragraph, "implementation" includes district review of employer-based trip reduction plans submitted by a school district.

(2) The purchase or lease of clean fuel buses for school districts and transit operators.

(3) The provision of local feeder bus or shuttle service to rail and ferry stations.

(4) The implementation and maintenance of local arterial traffic management, including, but not limited to, signal timing, transit signal preemption, bus stop relocation and "smart streets."

(5) Implementation of rail-bus integration and regional transit

information systems.

(6) Implementation of demonstration projects in telecommuting, congestion pricing of highways, bridges, and public transit, and alternative fuel vehicles.

(7) Implementation of a smoking vehicles program.

(c) Fee revenue generated under this chapter shall be allocated by the district for projects and programs specified in subdivision (b) to cities, counties, the Metropolitan Transportation Commission, transit districts, or any other public agency responsible for implementing one or more of the specified projects or programs. Fee revenues shall not be used for any planning activities that are not directly related to the implementation of a specific project or program.

(d) Not less than 40 percent of fee revenues shall be allocated to the entity or entities designated pursuant to subdivision (e) for projects and programs in each county within the bay district based upon the county's proportionate share of fee-paid vehicle registration.

(e) In each county, one or more entities may be designated as the overall program manager for the county by resolutions adopted by the county board of supervisors and the city councils of a majority of the cities representing a majority of the population in the incorporated area of the county. The resolution shall specify the terms and conditions for the expenditure of funds. The entities so designated shall be allocated the funds pursuant to subdivision (d) in accordance with the terms and conditions of the resolution.

SEC. 2. Section 44241 of the Health and Safety Code is amended to read:

44241. (a) Fee revenues generated under this chapter in the bay district shall be subvened to the bay district by the Department of Motor Vehicles after deducting its administrative costs pursuant to Section 44229.

(b) Fee revenues generated under this chapter shall be allocated by the bay district to implement the following transportation control projects and programs that are included in the plan adopted pursuant to Sections 40233 and 40717:

(1) The implementation and enforcement of local ridesharing and employer-based trip reduction ordinances and programs. As used in this paragraph, "implementation" includes district review of employer-based trip reduction plans submitted by a school district.

(2) The purchase or lease of clean fuel buses for school districts and transit operators.

(3) The provision of local feeder bus or shuttle service to rail and ferry stations.

(4) The implementation and maintenance of local arterial traffic management, including, but not limited to, signal timing, transit signal preemption, bus stop relocation, and "smart streets."

(5) Implementation of rail-bus integration and regional transit information systems.

(6) Implementation of demonstration projects in telecommuting, congestion pricing of highways, bridges, and public transit, and alternative fuel vehicles.

(7) Implementation of a smoking vehicles program.

(8) Implementation of an automotive buyback scrappage program. The automotive buyback scrappage program shall not be run by a private entity.

(c) Fee revenue generated under this chapter shall be allocated by the district for projects and programs specified in subdivision (b) to cities, counties, the Metropolitan Transportation Commission, transit districts, or any other public agency responsible for implementing one or more of the specified projects or programs. Fee revenues shall not be used for any planning activities that are not directly related to the implementation of a specific project or program.

(d) Not less than 40 percent of fee revenues shall be allocated to the entity or entities designated pursuant to subdivision (e) for projects and programs in each county within the bay district based upon the county's proportionate share of fee-paid vehicle registration.

(e) In each county, one or more entities may be designated as the overall program manager for the county by resolutions adopted by the county board of supervisors and the city councils of a majority of the cities representing a majority of the population in the incorporated area of the county. The resolution shall specify the terms and conditions for the expenditure of funds. The entities so designated shall be allocated the funds pursuant to subdivision (d) in accordance with the terms and conditions of the resolution.

SEC. 3. Section 44246 is added to the Health and Safety Code, to read:

44246. (a) For each school district that is required to submit a trip reduction plan to a district classified as having severe air pollution pursuant to Section 40920, the district to which the school district's trip reduction plan is submitted shall not enforce collection of any fee imposed upon the school district upon submission of the plan or for review of the plan, but shall, instead, recover that amount from funds collected by the district pursuant to Sections 44223 and 44225.

(b) For each school district that is required to submit a trip reduction plan to the bay district, the bay district shall not enforce collection of any fee imposed upon the school district upon submission of the plan or for review of the plan, but shall, instead, recover that amount from funds collected by the bay district pursuant to Section 44241.

(c) (1) For each school district that is required to submit a trip reduction plan to the south coast district, the south coast district shall not enforce collection of any fee imposed upon the school district upon submission of the plan or for review of the plan, but shall, instead, recover that amount from funds collected by the south coast

district pursuant to subdivision (c) of Section 44243.

(2) Notwithstanding subdivision (d) of Section 44244, the south coast district shall annually calculate the amount necessary to recover the cost of school district plan reviews, and the Mobile Source Air Pollution Reduction Review Committee shall allocate that amount to the south coast district from the funds collected pursuant to subdivision (c) of Section 44243.

(d) This section shall become operative July 1, 1994.

(e) This section shall remain in effect only until January 1, 1999, and on that date shall be repealed, unless a later enacted statute, which is enacted before January 1, 1999, deletes or extends that date.

SEC. 4. Section 2 of this bill incorporates amendments to Section 44241 of the Health and Safety Code proposed by both this bill and S.B. 198. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, (2) each bill amends Section 44241 of the Health and Safety Code, and (3) this bill is enacted after S.B. 198, in which case Section 1 of this bill shall not become operative.

SEC. 5. 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 1294

An act to amend Sections 17922.1 and 18941.6 of the Health and Safety Code, relating to building standards, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 17922.1 of the Health and Safety Code is amended to read:

17922.1. (a) Notwithstanding any other provisions of this part, the building standards in Appendix Chapter 1 of the Uniform Code for Building Conservation of the International Conference of Building Officials, as published in the California Building Standards Code, shall not apply to a local jurisdiction that has adopted, on or before January 1, 1993, a program for mitigation of potentially hazardous buildings, provided that a proposed ordinance containing standards to strengthen buildings prescribed pursuant to subdivision

(b) of Section 8875.2 of the Government Code was introduced on or before July 27, 1992.

(b) For all ordinances and programs adopted on or before January 1, 1993, that do not meet the conditions of subdivision (a), standards to strengthen buildings shall conform to requirements of Appendix Chapter 1 of the Uniform Code for Building Conservation of the International Conference of Building Officials, except as to requirements found by local ordinance to be inapplicable based on local conditions.

(c) Ordinances and programs adopted pursuant to this section shall conclusively be presumed to comply with the requirements of Chapter 173 of the Statutes of 1991.

SEC. 2. Section 18941.6 of the Health and Safety Code is amended to read:

18941.6. (a) Notwithstanding any other provision of this part, the building standards in Appendix Chapter 1 of the Uniform Code for Building Conservation of the International Conference of Building Officials, as published in the California Building Standards Code, shall not apply to a local jurisdiction that has adopted, on or before January 1, 1993, a program for mitigation of potentially hazardous buildings, provided that a proposed ordinance containing standards to strengthen buildings prescribed pursuant to subdivision (b) of Section 8875.2 of the Government Code was introduced on or before July 27, 1992.

(b) For all ordinances and programs adopted on or before January 1, 1993, that do not meet the conditions of subdivision (a), standards to strengthen buildings shall conform to those requirements of Appendix Chapter 1 of the Uniform Code for Building Conservation of the International Conference of Building Officials, except as to requirements found by local ordinance to be inapplicable based on local conditions.

(c) Ordinances and programs adopted pursuant to this section shall be conclusively presumed to comply with the requirements of Chapter 173 of the Statutes of 1991.

SEC. 3. Section 4 of Chapter 346 of the Statutes of 1992 shall apply for purposes of this 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:

In order to ensure the proper administration of programs for the mitigation of potentially hazardous buildings, it is necessary that this act take effect immediately.

CHAPTER 1295

An act to amend Section 56728.7 of the Education Code, relating to special education.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 56728.7 of the Education Code is amended to read:

56728.7. (a) The Superintendent of Public Instruction may conduct a pilot program for the 1992–93, 1993–94, and 1994–95 fiscal years to enable and encourage school districts and county offices of education, either individually or through special education local plan areas, to establish programs in public schools for individuals with exceptional needs who are currently placed in nonpublic, nonsectarian schools and to develop plans for the return of these pupils to an appropriate public school program, with a view of determining whether these new programs can provide an effective mainstreaming education program in a less restrictive environment which is appropriate to each pupil's needs for services as specified in his or her written individualized education program. Services provided pursuant to this section to each pupil by an individualized education program, including, but not limited to, psychotherapy, mental health, residential, or other services provided under provisions of Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, shall be continued unless otherwise agreed to by a review of the pupil's expanded individualized education program team. The superintendent shall select, for this purpose, no more than 11 school districts or county offices of education that are willing to participate in the pilot project, through an application process to be developed by the superintendent during the 1991–92 fiscal year in accordance with subdivision (c). A maximum of 220 pupils shall participate in the statewide pilot program at any given time. Of the 220 pupils, not more than 50 pupils shall be from any one school district, and no more than 15 pupils from any one school district shall be funded pursuant to Article 8.5 (commencing with Section 56775).

(b) In addition, the Superintendent of Public Instruction shall conduct a pilot program in San Mateo County and in the Contra Costa County special education local plan area for the 1994, 1995, and 1996 calendar years to encourage and enable the San Mateo County Office of Education and the Contra Costa County special education local plan area to identify pupils who currently are placed into a nonpublic school program by San Mateo County school districts or Contra Costa County school districts, respectively, but are able to be returned to an appropriate public school program, and to identify

seriously emotionally disturbed pupils who currently are in a public school program who are imminently at risk of placement in a nonpublic school program or another more restrictive setting. The purpose of each pilot program is to establish new public school programs that maintain an effective mainstreaming education program that is appropriate to each pupil's needs for the services specified in a pupil's individualized education program, and thereby avoid placing those pupils in a nonpublic school setting.

Services provided to a pupil pursuant to this section according to the pupil's individualized education program, including, but not limited to, psychotherapy, mental health, residential, or other services provided under the provisions of Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, shall be continued unless otherwise agreed to by a review of the pupil's expanded individualized education program team.

(c) The superintendent shall ensure that the local application to participate in a pilot program pursuant to subdivision (a) describes the program and fiscal resources that it will use in implementing the pilot program, including, but not limited to, the establishment of the Local Pilot Program Advisory Committee and its implementing policies for the pilot program. The superintendent shall make every effort to ensure that the racial, ethnic, and socioeconomic composition of the Local Pilot Program Advisory Committee reflects the current racial, ethnic, and socioeconomic composition of the exceptional pupil population in the school districts in which the pilot programs are established.

In its preparation of the application for participation in the pilot program, the local education agency shall consult with the special education local plan area in which it is a member and describe the impact the pilot program would have on other programs and resources available within the special education local plan area.

In addition, the superintendent shall ensure that there is a sampling of multiple sizes of school districts and county offices of education, including special education local plan areas whose special education plan serves an average daily attendance of 30,000 or more. The sampling shall also include all of the following:

(1) Local education agencies in urban and rural settings.

(2) Local education agencies serving large populations of individuals with exceptional needs from low-income and ethnic and linguistic minority families.

(3) Local education agencies impacted by a large number of individuals with exceptional needs who are served by nonpublic, nonsectarian schools and agencies.

(4) Local education agencies impacted by a large number of individuals with exceptional needs who reside in a foster family home, licensed children's institution, hospital, or other similar medical facility and who are served by nonpublic, nonsectarian schools or agencies.

(d) Consistent with Section 56366 and other provisions of law, it is the intent of the Legislature that programs developed pursuant to this section shall ensure the participation of, and coordination with, local contracted nonpublic, nonsectarian schools through the establishment of a Local Pilot Program Advisory Committee in order to develop, monitor, and evaluate policies to ensure that pupils' placements are changed when adequate progress is made and readiness for placement in a less restrictive environment located in a public school is achieved.

(1) The Local Pilot Program Advisory Committee shall be comprised of representatives of local public and contracted nonpublic school programs, parents, and other local public agencies providing services pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code. Representatives of each Local Pilot Program Advisory Committee shall include two representatives of local contracted nonpublic schools designated by the California Association of Private Specialized Education and Services without regard to membership, one of whom shall be a representative of a licensed children's institution when it is determined that pupils in a licensed children's institution in a nonpublic school program placement may be considered for placement in a mainstreaming educational program, a representative of the special education local plan area administrative unit, a teacher representative of a local public school participating in the pilot, a parent representative of the local community advisory committee, pursuant to Public Law 94-142, a representative of a parent advocate, a representative of the local mental health advisory board, and a representative of each local public agency providing services to exceptional pupils within the special education local plan area under Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code.

(2) Notwithstanding any other provision of law, the Local Pilot Program Advisory Committee shall advise on the development, monitoring, and evaluation of policies and procedures that are necessary to implement the pilot program. The advisement shall include, but not necessarily be limited to, the following subjects:

(A) Pupil behaviors.

(B) Pupil achievement and classroom performance reports.

(C) Curriculum and class size.

(D) Adequate support services.

(E) Personnel qualifications.

(3) The Local Pilot Program Advisory Committee shall also advise on development procedures and criteria for evaluating the effectiveness of the pilot program pursuant to paragraph (1) of subdivision (h) and shall annually submit a written evaluation of the pilot program to the Superintendent of Public Instruction. The Superintendent of Public Instruction shall evaluate selected pilot programs, based on the report of each advisory committee of how goals for an effective mainstream education program have been met

in accordance with pupils' individualized education programs.

(e) (1) Notwithstanding any other provision of law, in the 1992–93, 1993–94, and 1994–95 fiscal years for pilot programs operated pursuant to subdivision (a), and in the 1994, 1995, and 1996 calendar years for the pilot programs operated pursuant to subdivision (b), the Superintendent of Public Instruction shall apportion to each of the school districts or county offices of education selected pursuant to subdivision (a), and to the San Mateo County Office of Education and the Contra Costa County special education local plan area, in addition to any funds to which that district or county office is entitled under this chapter, an apportionment for each pupil who is returned by that district or county office from a nonpublic school program to a public school program pursuant to this section. The apportionment shall be equal to the average amount apportioned to the special education local plan area in which that district or county office is located for pupils under Sections 56740 and 56775 in the 1991–92 fiscal year for pilot programs operated pursuant to subdivision (a), and the average amount apportioned to the San Mateo County special education local plan area and the Contra Costa County special education local plan area, respectively, under those sections in the 1992–93 fiscal year for the pilot programs operated pursuant to subdivision (b), excluding the costs of room and board as identified by Section 56741. The costs resulting to that district or county office from the placement of any pupil in a public program operated by the district or county office pursuant to this section, including any residual nonpublic school costs for pupils transitioning into the public program, shall be funded from this apportionment. No school district or county office of education shall be entitled to receive any funding under Section 56740 or 56775 in any fiscal year based on the enrollment of any pupil for which that district or county office receives funding in that fiscal year under this subdivision.

(2) The apportionment authorized under paragraph (1) may only be provided for pupils who were enrolled in a nonpublic, nonsectarian school in the fiscal year prior to the new year in which the pupil is returned to public school placement. Each pupil's placement shall be changed, in accordance with this part, to a public school special education program as described under this section not later than June 30, 1994, for pupils in a pilot program operated pursuant to subdivision (a) and not later than December 30, 1995, for pupils in a pilot program operated pursuant to subdivision (b).

(3) A school district or county office of education is not entitled to receive both a nonpublic school entitlement under Section 56740 or 56775, and a pilot program apportionment as authorized by paragraph (1) in any fiscal year for pupils' participation in the statewide pilot project.

(4) If a participating pupil leaves the pilot program due to age or achievement, a change of district of residence, or if it is subsequently determined by an individualized education program team that a pupil's programmatic needs cannot be successfully met in the

mainstream education program, another pupil may replace that pupil if the new pupil qualifies under paragraph (2). If a pupil leaves the pilot program during any fiscal year for any of the above reasons, and the pupil cannot be replaced by another pupil who qualifies under paragraph (2), the school district or county office shall provide an adjusted full-time equivalent number of pupils who actually participated in the statewide pilot program for each fiscal year to the Superintendent of Public Instruction by no later than September 30 following each fiscal or calendar year of the pilot project. The adjusted full-time equivalent number of pupils shall be used to compute an appropriate reduction in the preceding fiscal year's annualized pilot program apportionment authorized under paragraph (1) before the adjustments, if any, as specified in paragraph (7) are performed.

(5) If a nonpublic school program is resumed for a pupil due to an unsuccessful transition to a mainstream education program, the district or county office may resume the reporting of nonpublic school costs under Sections 56740 and 56775 if the Superintendent of Public Instruction has been notified as specified in paragraph (4).

(6) For a pilot program operated pursuant to subdivision (a), the apportionment authorized under this section shall include the costs of one certificated person who shall serve as a mainstream education liaison. The workload of a mainstream education liaison shall not exceed a full-time equivalent per pupil caseload of 20.

(7) The apportionment authorized under paragraph (1) shall be used solely for purposes of providing special education programs. Any excess apportionment remaining from the costs of operating pilot programs pursuant to this section shall be adjusted from the subsequent year's apportionment which the district or county office of education may be eligible to receive. The amount of excess pilot program apportionment shall be reported to the Superintendent of Public Instruction by not later than October 30 following each fiscal year of the pilot project.

(f) Notwithstanding any other provision of law, pilot project pupils shall not be included in the calculation of the number of instructional personnel services units to which a school district or county office is entitled, in the calculation of pupil service ratio as provided in Section 56760, or in the enrollment used to compute extended year entitlements pursuant to Section 56726.

(g) This section shall not be construed to authorize any increase in state apportionments for special education to which a participating school district or county office of education is entitled under this chapter.

(h) (1) The Superintendent of Public Instruction shall evaluate the pilot program or programs operated under subdivision (a) pursuant to criteria developed in consultation with the participating school districts or county offices of education and a statewide representative of contracted nonpublic, nonsectarian schools. The evaluation shall include, but not necessarily be limited to, descriptive

information and supporting data provided by the Local Pilot Program Advisory Committee and others as appropriate in determining whether the program operated by each participating district or county office accomplished each of the following objectives:

(A) Provided pupils who were formerly placed in nonpublic, nonsectarian schools with an appropriate and effective mainstreaming education program which is consistent with each pupil's needs as specified in his or her individualized education program and located in a less restrictive environment in a public school.

(B) Served those pupils in age-appropriate, less restrictive environments, including interaction or receiving instruction with their nonhandicapped peers.

(C) Provided programs and services located in a public school to those pupils at a cost to the public that was no greater than that incurred in the nonpublic, nonsectarian school setting, including the public program costs for instruction, designated instruction and services, direct support services, indirect support services, and the costs of services provided by local public agencies under Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code. It is the intent of the Legislature that the comparison of the costs for services provided by public and nonpublic school programs be based on uniform program cost accounting procedures prescribed by the Superintendent of Public Instruction pursuant to Section 56730.5.

(2) The Superintendent of Public Instruction shall evaluate the pilot programs operated pursuant to subdivision (b) pursuant to criteria developed in consultation with the participating school districts or county office of education and a statewide representative of contracted nonpublic, nonsectarian schools. Each evaluation shall include, but not necessarily be limited to, descriptive information and supporting data provided by the Local Pilot Program Advisory Committee and others as appropriate in determining whether the program operated by each participating district or the county office accomplished each of the following objectives:

(A) The objectives listed in paragraph (1).

(B) Provided pupils who were identified as being imminently at risk of nonpublic school placement with an appropriate and effective mainstreaming education program that is consistent with each pupil's needs, as specified in his or her individualized education program.

(C) Enabled those pupils to attend and achieve in a public school setting.

(D) Provided programs and services located in a public school to those pupils at a cost to the public that was no greater than that incurred in the identified nonpublic, nonsectarian school setting into which they were at risk of being placed, including the public program costs for instruction, designated instruction and services,

direct support services, indirect support services, and the costs of services provided by local public agencies under Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code. It is the intent of the Legislature that the comparison of the costs for services provided by public and nonpublic school programs be based on uniform program cost accounting procedures prescribed by the Superintendent of Public Instruction pursuant to Section 56730.5.

(i) The superintendent shall report the results of the evaluations to the Legislature no later than July 1, 1997.

(j) This section shall remain in effect only until January 1, 1998, and as of that date is repealed.

SEC. 1.5. Section 56728.7 of the Education Code is amended to read:

56728.7. (a) The Superintendent of Public Instruction may conduct a pilot program for the 1992–93, 1993–94, and 1994–95 fiscal years to enable and encourage school districts and county offices of education, either individually or through special education local plan areas, to establish programs in public schools for individuals with exceptional needs who are currently placed in nonpublic, nonsectarian schools and to develop plans for the return of these pupils to an appropriate public school program, with a view of determining whether these new programs can provide an effective mainstreaming education program in a less restrictive environment which is appropriate to each pupil's needs for services as specified in his or her written individualized education program. Services provided pursuant to this section to each pupil by an individualized education program, including, but not limited to, psychotherapy, mental health, residential, or other services provided under provisions of Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, shall be continued unless otherwise agreed to by a review of the pupil's expanded individualized education program team. The superintendent shall select, for this purpose, no more than 10 school districts or county offices of education that are willing to participate in the pilot project, through an application process to be developed by the superintendent during the 1991–92 fiscal year in accordance with subdivision (c). A maximum of 200 pupils shall participate in the statewide pilot program at any given time. Of the 200 pupils, not more than 50 pupils shall be from any one school district, and no more than 15 pupils from any one school district shall be funded pursuant to Article 8.5 (commencing with Section 56775).

(b) In addition, the Superintendent of Public Instruction shall conduct a pilot program in San Mateo County and in the Contra Costa County special education local plan area for the 1994, 1995, and 1996 calendar years to encourage and enable the San Mateo County Office of Education and the Contra Costa County special education local plan area to identify pupils who currently are placed into a nonpublic school program by San Mateo County school districts or

Contra Costa County school districts, respectively, but are able to be returned to an appropriate public school program, and to identify seriously emotionally disturbed pupils who currently are in a public school program who are imminently at risk of placement in a nonpublic school program or another more restrictive setting. The purpose of each pilot program is to establish new public school programs that maintain an effective mainstreaming education program that is appropriate to each pupil's needs for the services specified in a pupil's individualized education program, and thereby avoid placing those pupils in a nonpublic school setting.

Services provided to a pupil pursuant to this section according to the pupils' individualized education program, including, but not limited to, psychotherapy, mental health, residential, or other services provided under the provisions of Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, shall be continued unless otherwise agreed to by a review of the pupil's expanded individualized education program team.

(c) The superintendent shall ensure that the local application to participate in a pilot program pursuant to subdivision (a) describes the program and fiscal resources that it will use in implementing the pilot program, including, but not limited to, the establishment of the Local Pilot Program Advisory Committee and its implementing policies for the pilot program. The superintendent shall make every effort to ensure that the racial, ethnic, and socioeconomic composition of the Local Pilot Program Advisory Committee reflects the current racial, ethnic, and socioeconomic composition of the exceptional pupil population in the school districts in which the pilot programs are established.

In its preparation of the application for participation in the pilot program, the local education agency shall consult with the special education local plan area in which it is a member and describe the impact the pilot program would have on other programs and resources available within the special education local plan area.

In addition, the superintendent shall ensure that there is a sampling of multiple sizes of school districts and county offices of education, including special education local plan areas whose special education plan serves an average daily attendance of 30,000 or more. The sampling shall also include all of the following:

(1) Local education agencies in urban and rural settings.

(2) Local education agencies serving large populations of individuals with exceptional needs from low-income and ethnic and linguistic minority families.

(3) Local education agencies impacted by a large number of individuals with exceptional needs who are served by nonpublic, nonsectarian schools and agencies.

(4) Local education agencies impacted by a large number of individuals with exceptional needs who reside in a foster family home, licensed children's institution, hospital, or other similar

medical facility and who are served by nonpublic, nonsectarian schools or agencies.

(d) Consistent with Section 56366 and other provisions of law, it is the intent of the Legislature that programs developed pursuant to this section shall ensure the participation of, and coordination with, local contracted nonpublic, nonsectarian schools through the establishment of a Local Pilot Program Advisory Committee in order to develop, monitor, and evaluate policies to ensure that pupils' placements are changed when adequate progress is made and readiness for placement in a less restrictive environment located in a public school is achieved.

(1) The Local Pilot Program Advisory Committee shall be comprised of representatives of local public and contracted nonpublic school programs, parents, and other local public agencies providing services pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code. Representatives of each Local Pilot Program Advisory Committee shall include two representatives of local contracted nonpublic schools designated by the California Association of Private Specialized Education and Services without regard to membership, one of whom shall be a representative of a licensed children's institution when it is determined that pupils in a licensed children's institution in a nonpublic school program placement may be considered for placement in a mainstreaming educational program, a representative of the special education local plan area administrative unit, a teacher representative of a local public school participating in the pilot, a parent representative of the local community advisory committee, pursuant to Public Law 94-142, a representative of a parent advocate, a representative of the local mental health advisory board, and a representative of each local public agency providing services to exceptional pupils within the special education local plan area under Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code.

(2) Notwithstanding any other provision of law, the Local Pilot Program Advisory Committee shall advise on the development, monitoring, and evaluation of policies and procedures that are necessary to implement the pilot program. The advisement shall include, but not necessarily be limited to, the following subjects:

(A) Pupil behaviors.

(B) Pupil achievement and classroom performance reports.

(C) Curriculum and class size.

(D) Adequate support services.

(E) Personnel qualifications.

(3) The Local Pilot Program Advisory Committee shall also advise on development procedures and criteria for evaluating the effectiveness of the pilot program pursuant to paragraph (1) of subdivision (h) and shall annually submit a written evaluation of the pilot program to the Superintendent of Public Instruction. The Superintendent of Public Instruction shall evaluate selected pilot

programs, based on the report of each advisory committee of how goals for an effective mainstream education program have been met in accordance with pupils' individualized education programs.

(e) (1) Notwithstanding any other provision of law, in the 1992–93, 1993–94, and 1994–95 fiscal years for pilot programs operated pursuant to subdivision (a), and in the 1994, 1995, and 1996 calendar years for the pilot programs operated pursuant to subdivision (b), the Superintendent of Public Instruction shall apportion to each of the school districts or county offices of education selected pursuant to subdivision (a), and to the San Mateo County office of Education and Contra Costa County special education local plan area, in addition to any funds to which that district or county office is entitled under this chapter, an apportionment for each pupil who is returned by that district or county office from a nonpublic school program to a public school program pursuant to this section. The apportionment shall be equal to the average amount apportioned to the special education local plan area in which that district or county office is located for pupils under Sections 56740 and 56775 in the 1991–92 fiscal year for pilot programs operated pursuant to subdivision (a), and the average amount apportioned to the San Mateo special education local plan area and the Contra Costa County special education local plan area, respectively, under those sections in the 1992–93 fiscal year for the pilot programs operated pursuant to subdivision (b), excluding the costs of room and board as identified by Section 56741. The costs resulting to that district or county office from the placement of any pupil in a public program operated by the district or county office pursuant to this section, including any residual nonpublic school costs for pupils transitioning into the public program, shall be funded from this apportionment. No school district or county office of education shall be entitled to receive any funding under Section 56740 or 56775 in any fiscal year based on the enrollment of any pupil for which that district or county office receives funding in that fiscal year under this subdivision.

(2) The apportionment authorized under paragraph (1) may only be provided for pupils who were enrolled in a nonpublic, nonsectarian school in the fiscal year prior to the new year in which the pupil is returned to public school placement. Each pupil's placement shall be changed, in accordance with this part, to a public school special education program as described under this section not later than June 30, 1994, for pupils in a pilot program operated pursuant to subdivision (a) and not later than December 30, 1995, for pupils in a pilot program operated pursuant to subdivision (b).

(3) A school district or county office of education is not entitled to receive both a nonpublic school entitlement under Section 56740 or 56775, and a pilot program apportionment as authorized by paragraph (1) in any fiscal year for pupils participation in the statewide pilot project.

(4) If a participating pupil leaves the pilot program due to age or achievement, a change of district of residence, or if it is subsequently

determined by an individual education program team that a pupil's programmatic needs cannot be successfully met in the mainstream education program, another pupil may replace that pupil if the new pupil qualifies under paragraph (2). If a pupil leaves the pilot program during any fiscal year for any of the above reasons, and the pupil cannot be replaced by another pupil who qualifies under paragraph (2), the school district or county office shall provide an adjusted full-time equivalent number of pupils who actually participated in the statewide pilot program for each fiscal year to the Superintendent of Public Instruction by no later than September 30 following each fiscal year or calendar year of the pilot project. The adjusted full-time equivalent number of pupils shall be used to compute an appropriate reduction in the preceding fiscal year's annualized pilot program apportionment authorized under paragraph (1) before the adjustments, if any, as specified in paragraph (7) are performed.

(5) If a nonpublic school program is resumed for a pupil due to an unsuccessful transition to a mainstream education program, the district or county office may resume the reporting of nonpublic school costs under Sections 56740 and 56775 if the Superintendent of Public Instruction has been notified as specified in paragraph (4).

(6) For a pilot program operated pursuant to subdivision (a), the apportionment authorized under this section shall include the costs of one certificated person who shall serve as a mainstream education liaison. The workload of a mainstream education liaison shall not exceed a full-time equivalent per pupil caseload of 20.

(7) The apportionment authorized under paragraph (1) shall be used solely for purposes of providing special education programs. Any excess apportionment remaining from the costs of operating pilot programs pursuant to this section shall be adjusted from the subsequent year's apportionment which the district or county office of education may be eligible to receive. The amount of excess pilot program apportionment shall be reported to the Superintendent of Public Instruction by not later than October 30 following each fiscal year or calendar year of the pilot project.

(f) Notwithstanding any other provision of law, pilot project pupils shall not be included in the calculation of the number of instructional personnel services units to which a school district or county office is entitled, in the calculation of pupil service ratio as provided in Section 56760, or in the enrollment used to compute extended year entitlements pursuant to Section 56726.

(g) This section shall not be construed to authorize any increase in state apportionments for special education to which a participating school district or county office of education is entitled under this chapter.

(h) (1) For a pilot program operated pursuant to subdivision (a), the Superintendent of Public Instruction shall evaluate the pilot program or programs operated under this section pursuant to criteria developed in consultation with the participating school

districts or county offices of education and a statewide representative of contracted nonpublic, nonsectarian schools. The evaluation shall include, but not necessarily be limited to, descriptive information and supporting data provided by the Local Pilot Program Advisory Committee and others as appropriate in determining whether the program operated by each participating district or county office accomplished each of the following objectives:

(A) Provided pupils who were formerly placed in nonpublic, nonsectarian schools with an appropriate and effective mainstreaming education program which is consistent with each pupil's needs as specified in his or her individualized education program and located in a less restrictive environment in a public school.

(B) Served those pupils in age-appropriate, less restrictive environments, including interaction or receiving instruction with their nondisabled peers.

(C) Provided programs and services located in a public school to those pupils at a cost to the public that was no greater than that incurred in the nonpublic, nonsectarian school setting, including the public program costs for instruction, designated instruction and services, direct support services, indirect support services, and the costs of services provided by local public agencies under Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code. It is the intent of the Legislature that the comparison of the costs for services provided by public and nonpublic school programs be based on uniform program cost accounting procedures prescribed by the Superintendent of Public Instruction pursuant to Section 56730.5.

(2) The Superintendent of Public Instruction shall evaluate the pilot programs operated pursuant to subdivision (b) pursuant to criteria developed in consultation with the participating school districts or county office of education and a statewide representative of contracted nonpublic, nonsectarian schools. The evaluation shall include, but not necessarily be limited to, descriptive information and supporting data provided by the Local Pilot Program Advisory Committee and others as appropriate in determining whether the program operated by each participating district or the county office accomplished each of the following objectives:

(A) The objectives listed in paragraph (1).

(B) Provided pupils who were identified as being imminently at risk of nonpublic school placement with an appropriate and effective mainstreaming education program that is consistent with each pupil's needs, as specified in his or her individualized education program.

(C) Enabled those pupils to attend and achieve in a public school setting.

(D) Provided programs and services located in a public school to those pupils at a cost to the public that was no greater than that incurred in the identified nonpublic, nonsectarian school setting into

which they were at risk of being placed, including the public program costs for instruction, designated instruction and services, direct support services, indirect support services, and the costs of services provided by local public agencies under Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code. It is the intent of the Legislature that the comparison of the costs for services provided by public and nonpublic school programs be based on uniform program cost accounting procedures prescribed by the Superintendent of Public Instruction pursuant to Section 56730.5.

(i) The superintendent shall report the results of the evaluations to the Legislature no later than July 1, 1997.

(j) This section shall remain in effect only until January 1, 1998, and as of that date is repealed.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 56728.7 of the Education Code proposed by both this bill and A.B. 369. Section 1.5 shall become operative only if (1) both bills are enacted and this bill becomes effective on January 1, 1994, and A.B. 369 becomes effective on or before January 1, 1994, (2) each bill amends Section 56728.7 of the Education Code, and (3) this bill is enacted after A.B. 369, in which case Section 1 of this bill shall not become operative.

SEC. 3. 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.

CHAPTER 1296

An act to amend Sections 5020, 8261, 8263, 8350, 17717.7, 39602, 41020.6, 41851.2, 42242, 45243, 46010, 46111, 48204, 48410, 48980, 49533, 51747.5, 51768, 52860, 54657, 56000, 56001, 56026, 56050, 56101, 56134, 56135, 56155.5, 56200, 56341, 56364, 56365, 56366, 56366.1, 56367, 56426, 56426.1, 56426.2, 56426.25, 56426.5, 56426.6, 56426.7, 56427, 56429, 56440, 56441, 56446, 56475, 56502, 56722, 56728.7, 56728.9, 56740, 56850, 56851, 56852, 56853, 56859, 56863, 56876, 56885, 58804.2, 59143, 88063, and 88066, to amend and renumber Sections 8323 and 56731, to add Sections 35184, 56032, 56320.1, 56340.1, and 56382 to, to repeal Sections 2558.6, 33038, 37705.5, and 42238.16 of, and to repeal and add Sections 37700 and 56441.11 of, the Education Code, and to amend Section 3 of Chapter 24 and Section 1 of Chapter 71 of the Statutes of 1992, relating to education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 2558.6 of the Education Code is repealed.

SEC. 1.2. Section 5020 of the Education Code is amended to read:

5020. (a) The resolution of the county committee approving a proposal to establish or abolish trustee areas or to increase or decrease the number of members of the governing board shall constitute an order of election, and the proposal shall be presented to the electors of the district not later than the next succeeding election for members of the governing board.

(b) If a petition requesting an election on a proposal to rearrange trustee area boundaries is filed, containing at least 5 percent of the signatures of the district's registered voters as determined by the elections official, the proposal shall be presented to the electors of the district, at the next succeeding election for the members of the governing board, at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot.

(c) If a petition requesting an election on a proposal to establish or abolish trustee areas, to increase or decrease the number of members of the board, or to adopt one of the alternative methods of electing governing board members specified in Section 5030 is filed, containing at least 10 percent of the signatures of the district's registered voters as determined by the elections official, the proposal shall be presented to the electors of the district, at the next succeeding election for the members of the governing board, at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot. Before the proposal is presented to the electors, the county committee on school district organization may call and conduct one or more public hearings on the proposal.

(d) For each proposal there shall be a separate proposition on the ballot. The ballot shall contain the following words:

"For the establishment (or abolition or rearrangement) of trustee areas in _____ (insert name) School District—Yes" and "For the establishment (or abolition or rearrangement) of trustee areas in _____ (insert name) School District—No."

"For increasing the number of members of the governing board of _____ (insert name) School District from five to seven—Yes" and "For increasing the number of members of the governing board of _____ (insert name) School District from five to seven—No."

"For decreasing the number of members of the governing board

of _____ (insert name) School District from seven to five—Yes" and "For decreasing the number of members of the governing board of _____ (insert name) School District from seven to five—No."

"For the election of each member of the governing board of the _____ (insert name) School District by the registered voters of the entire _____ (insert name) School District—Yes" and "For the election of each member of the governing board of the _____ (insert name) School District by the registered voters of the entire _____ (insert name) School District—No."

"For the election of one member of the governing board of the _____ (insert name) School District residing in each trustee area elected by the registered voters in that trustee area—Yes" and "For the election of one member of the governing board of the _____ (insert name) School District residing in each trustee area elected by the registered voters in that trustee area—No."

"For the election of one member, or more than one member for one or more trustee areas, of the governing board of the _____ (insert name) School District residing in each trustee area elected by the registered voters of the entire _____ (insert name) School District—Yes" and "For the election of one member, or more than one member for one or more trustee areas, of the governing board of the _____ (insert name) School District residing in each trustee area elected by the registered voters of the entire _____ (insert name) School District—No."

If more than one proposal appears on the ballot, all must carry in order for any to become effective, except that a proposal to adopt one of the methods of election of board members specified in Section 5030 which is approved by the voters shall become effective unless a proposal which is inconsistent with that proposal has been approved by a greater number of voters. An inconsistent proposal approved by a lesser number of voters than the number which have approved a proposal to adopt one of the methods of election of board members specified in Section 5030 shall not be effective.

SEC. 1.3. Section 8261 of the Education Code, as amended by Section 1 of Chapter 60 of the Statutes of 1993, 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.

(d) Child care and development programs operated under contract from funds made available pursuant to the federal Child Care and Development Block Grant of 1990, established by the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508), shall be administered according to Division 19 (commencing with Section 17906) of Chapter 1 of Title 5 of the California Code of Regulations, unless provisions of these regulations conflict with federal regulations. If state and federal regulations conflict, the federal regulations shall apply unless a waiver of federal regulations is authorized.

SEC. 1.5. Section 8263 of the Education Code is amended to read:

8263. (a) The Superintendent of Public Instruction shall adopt rules and regulations on eligibility, enrollment, and priority of services needed to implement this chapter. In order to be eligible for federal and state subsidized child development services, families shall meet at least one requirement in each of the following areas:

(1) A family shall be (A) a current aid recipient, (B) income

eligible, (C) homeless, or (D) 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 child is identified by a legal, medical, social service agency, or emergency shelter as being (A) a recipient of protective services, (B) being neglected, abused, or exploited, or at risk of neglect, abuse, or exploitation, or (C) having a medical or psychiatric special need which cannot be met without provision of child day care, or the parents are (i) engaged in vocational training leading directly to a recognized trade, paraprofession, or profession, (ii) employed or seeking employment, (iii) seeking permanent housing for family stability, or (iv) incapacitated, including a medical or psychiatric special need which cannot be met without provision of child day care.

(b) Priority for state and federally subsidized child development services 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, or social service agency. When an agency is unable to enroll a child in the first priority category, the agency shall refer the family to local resource and referral services to locate services for the child.

(2) Second priority shall be equally given to eligible families, regardless of the number of parents in the home, who are income eligible. Within this priority, families with the lowest gross monthly income in relation to family size, as determined by a schedule adopted by the superintendent, shall be admitted first. When two or more families are in the same priority in relation to income, the family which has been on the waiting list for the longest amount of time shall be admitted first. For purposes of determining order of admission, the grants of public assistance recipients shall be counted as income.

(3) The superintendent shall set criteria for and may grant specific waivers of the priorities established in this subdivision for agencies that wish to serve specific populations, including handicapped children or children of prisoners. These new waivers shall not include proposals to avoid appropriate fee schedules or admit ineligible families, but may include proposals to accept members of special populations in other than strict income order, as long as appropriate fees are paid.

(4) Notwithstanding any other provision of law, in order to promote continuity of services, a family enrolled in a state or federally funded child care and development program whose services would otherwise be terminated because the family no longer meets the program income, eligibility, or need criteria may continue to receive child development services if the contractor is able to transfer the family's enrollment to another program for which the

family continues to be eligible prior to the date of termination of services. The transfer of enrollment may be to another program within the same administrative agency or to another agency that administers state or federally funded child care and development programs within that county.

(c) A physical examination and evaluation, including age-appropriate immunization, shall be required prior to, or within six weeks of, enrollment. No standard, rule, or regulation shall require medical examination or immunization for admission to a child care and development program of a child whose parent or guardian files a letter with the governing board of the child care and development program stating that the medical examination or immunization is contrary to his or her religious beliefs, or provide for the exclusion of a child from the program because of a parent or guardian having filed the letter. However, whenever there is good cause to believe that a child is suffering from a recognized contagious or infectious disease, the child shall be temporarily excluded from the program until the governing board of the child care and development program is satisfied that any contagious or infectious disease does not exist.

(d) Regulations formulated and promulgated pursuant to this section shall include the recommendations of the State Department of Health Services relative to health care screening and the provision of health care services. The superintendent shall seek the advice and assistance of these health authorities in situations where service under this chapter includes or requires care of ill or disabled children.

(e) The superintendent shall establish a fee schedule for families utilizing child care and development services pursuant to this chapter. No fees shall be assessed for families whose children are enrolled in the state preschool program.

(f) The superintendent shall establish guidelines for the collection of employer sponsored child care benefit payments from any parent whose child receives subsidized child care and development services. These guidelines shall provide for the collection of the full amount of the benefit payment, but not to exceed the actual cost of child care and development services provided, notwithstanding the applicable fee based on the fee schedule.

(g) The superintendent shall establish guidelines according to which the director or a duly authorized representative of the child care and development program will certify children as eligible for state reimbursement pursuant to this section.

(h) No public funds shall be paid directly or indirectly to any agency which does not pay at least the minimum wage to each of its employees.

SEC. 1.6. Section 8263 of the Education Code is amended to read:

8263. (a) The Superintendent of Public Instruction shall adopt rules and regulations on eligibility, enrollment, and priority of services needed to implement this chapter. In order to be eligible for

federal and state subsidized child development services, families shall meet at least one requirement in each of the following areas:

(1) A family shall be (A) a current aid recipient, (B) income eligible, (C) homeless, or (D) 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 child is identified by a legal, medical, social service agency, or emergency shelter as being (A) a recipient of protective services, (B) being neglected, abused, or exploited, or at risk of neglect, abuse, or exploitation, or (C) having a medical or psychiatric special need which cannot be met without provision of child day care, or the parents are (i) engaged in vocational training leading directly to a recognized trade, paraprofession, or profession, (ii) employed or seeking employment, (iii) seeking permanent housing for family stability, or (iv) incapacitated, including a medical or psychiatric special need which cannot be met without provision of child day care.

(b) Priority for state and federally subsidized child development services 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, or social service agency. When an agency is unable to enroll a child in the first priority category, the agency shall refer the family to local resource and referral services to locate services for the child.

(2) Second priority shall be equally given to eligible families, regardless of the number of parents in the home, who are income eligible. Within this priority, families with the lowest gross monthly income in relation to family size, as determined by a schedule adopted by the superintendent, shall be admitted first. When two or more families are in the same priority in relation to income, the family that has been on the waiting list for the longest amount of time shall be admitted first. For purposes of determining order of admission, the grants of public assistance recipients shall be counted as income.

(3) The superintendent shall set criteria for and may grant specific waivers of the priorities established in this subdivision for agencies that wish to serve specific populations, including handicapped children or children of prisoners. These new waivers shall not include proposals to avoid appropriate fee schedules or admit ineligible families, but may include proposals to accept members of special populations in other than strict income order, as long as appropriate fees are paid.

(4) Notwithstanding any other provision of law, in order to promote continuity of services, a family enrolled in a state or federally funded child care and development program whose services would otherwise be terminated because the family no longer

meets the program income, eligibility, or need criteria may continue to receive child development services if the contractor is able to transfer the family's enrollment to another program for which the family continues to be eligible prior to the date of termination of services. The transfer of enrollment may be to another program within the same administrative agency or to another agency that administers state or federally funded child care and development programs within that county.

(c) A physical examination and evaluation, including age-appropriate immunization, shall be required prior to, or within six weeks of, enrollment. No standard, rule, or regulation shall require medical examination or immunization for admission to a child care and development program of a child whose parent or guardian files a letter with the governing board of the child care and development program stating that the medical examination or immunization is contrary to his or her religious beliefs, or provide for the exclusion of a child from the program because of a parent or guardian having filed the letter. However, whenever there is good cause to believe that a child is suffering from a recognized contagious or infectious disease, the child shall be temporarily excluded from the program until the governing board of the child care and development program is satisfied that any contagious or infectious disease does not exist.

(d) Regulations formulated and promulgated pursuant to this section shall include the recommendations of the State Department of Health Services relative to health care screening and the provision of health care services. The superintendent shall seek the advice and assistance of these health authorities in situations where service under this chapter includes or requires care of ill or disabled children.

(e) The superintendent shall establish a fee schedule for families utilizing child care and development services pursuant to this chapter, which shall include, but not be limited to, the following restrictions:

(1) No fees shall be assessed for families whose children are enrolled in the state preschool program.

(2) No contractor or provider shall require, in cash or in kind, additional payments from the recipients of service. The prohibition includes activities or services that would increase the family's cost of participation, including meals and recreation. However, a contractor or provider may require parents to provide diapers, and may charge parents for field trips under the following circumstances:

(A) The provider has a written policy that is adopted by the agency's governing board that includes parents in the decisionmaking process regarding both of the following:

(i) Whether or not, and how much, to charge for field trip expenses.

(ii) Whether or not to require parents to provide diapers.

(B) The maximum total of charges per child in a contract year

does not exceed twenty-five dollars ($25).

(C) No child is denied participation in a field trip due to the parent's inability or refusal to pay the charge. No adverse action shall be taken against any parent for that inability or refusal.

Each contractor or provider shall establish a payment system that prevents the identification of children based on whether or not their parents have paid a field trip charge.

Expenses incurred and income received for field trips pursuant to this section, shall be reported to the State Department of Education. The income received for field trips shall be reported specifically as restricted income.

(f) The superintendent shall establish guidelines for the collection of employer sponsored child care benefit payments from any parent whose child receives subsidized child care and development services. These guidelines shall provide for the collection of the full amount of the benefit payment, but not to exceed the actual cost of child care and development services provided, notwithstanding the applicable fee based on the fee schedule.

(g) The superintendent shall establish guidelines according to which the director or a duly authorized representative of the child care and development program will certify children as eligible for state reimbursement pursuant to this section.

(h) No public funds shall be paid directly or indirectly to any agency that does not pay at least the minimum wage to each of its employees.

SEC. 1.7. Section 8323 of the Education Code is amended and renumbered to read:

79121. (a) Notwithstanding any other provision of law, a child under two years of age whose parent is a student, or whose parents are students, may attend child development centers consistent with the priorities established pursuant to law.

(b) Children of students attending school at a particular campus shall have first priority for attendance at a child development center at that campus.

(c) Student families, as defined in Section 8250.1, whose gross monthly income falls within the fee schedule established pursuant to Section 8249, shall pay fees according to the fee schedule.

(d) Highest priority shall be given to student families with the greatest income deficit, and lowest priority to student families with the greatest income.

(e) For the purposes of assigning eligibility priority, applicant student families shall be grouped according to the amount of their income in one-hundred-dollar ($100) monthly increments. All student families within a particular income range shall be treated as if their incomes were the same, and priority for eligibility within each particular income range shall be assigned on the following basis:

(1) Single-parent student families.

(2) Two-parent families, where both parents are students or where one parent is a student and the other is working.

(f) Student families who are recipients of public assistance shall be subject to the same assignment of priority as other student families whose incomes fall in the same income range.

SEC. 1.9. Section 8350 of the Education Code is amended to read:

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. Until these rules and regulations are adopted, child care and development contractors who operate with funds made available through the At Risk Child Care Program pursuant to this article shall adhere to Division 19 (commencing with Section 17906) of Chapter 1 of Title 5 of the California Code of Regulations, unless provisions of these regulations are inconsistent with federal child care provisions set forth in Section 5081 of Chapter 6 of Title V of the Omnibus Budget Reconciliation Act of 1990 or with other provisions of this article.

SEC. 2. Section 17717.7 of the Education Code is amended to read:

17717.7. (a) Notwithstanding any other provision of this chapter, priority for the approval of project funding for new construction under this chapter, shall be as follows:

(1) First priority for construction funds shall be given to school districts with a substantial enrollment in multitrack year-round schools requesting state funding for 50 percent of the cost of a project that would be constructed to operate on a multitrack year-round basis.

(2) Second priority shall be for school districts with a substantial enrollment in multitrack year-round schools requesting state funding for the entire cost of a project that would be constructed to operate on a multitrack year-round basis.

(3) Third priority shall be for school districts without a substantial enrollment in multitrack year-round schools requesting state funding for 50 percent of the cost of a project to operate on a multitrack year-round basis.

(4) Fourth priority shall be for school districts without a substantial enrollment in multitrack year-round schools requesting state funding for the entire cost of a project that would be constructed to operate on a multitrack year-round basis.

(5) Fifth priority shall be for school districts with a substantial enrollment in multitrack year-round schools requesting state funding for 50 percent of the cost of a project that would not operate on a multitrack year-round basis.

(6) Sixth priority shall be for school districts with a substantial enrollment in multitrack year-round schools requesting state funding for the entire cost of a project that would not operate on a multitrack year-round basis.

(b) The board shall not restrict the availability of funding for construction of multitrack year-round schools, from any funding source available to the State School Building Lease-Purchase Fund, but shall make approval of project funding for those projects the first priority in accordance with this section.

(c) "Substantial enrollment," for the purposes of this section, means enrollment of at least 30 percent of district pupils in kindergarten and grades 1 to 6, inclusive, or 40 percent of pupils in kindergarten and grades 1 to 12, inclusive, in the high school attendance area for which the school district is applying for new facilities. The calculation set forth in this subdivision, as to a self-certifying district, shall be made by the district, in accordance with any standards governing that calculation that are adopted by the board. The calculation shall be certified by the district to the board and used by the board for the purposes of this section. The self-certifying district shall maintain documentation of the calculation as may be required by the board, and the calculation shall be subject to subsequent audit as the board may direct. If a self-certifying district is found by the board to have materially misrepresented its pupil enrollment pursuant to this subdivision, the board may impose either or both of the penalties set forth in paragraphs (1) and (2) of subdivision (b) of Section 17741.2, in accordance with that section.

(d) "Multitrack year-round school," for purposes of this section, means a school for which the applicant district demonstrates that both of the following criteria are satisfied:

(1) The pupils are divided into three or more groups or tracks, which rotate attendance so that, for a majority of schooldays during the school year, at least one group or track is not attending the school while all other groups or tracks are in attendance.

(2) The operation of the school on a multitrack year-round basis has resulted in an increase in enrollment capacity.

(e) Notwithstanding any other provision of this section, the State Allocation Board may continue to implement any year-round school priority provisions for hardships adopted prior to September 1, 1990.

SEC. 2.5. Section 33038 of the Education Code is repealed.

SEC. 3. Section 35184 is added to the Education Code, to read:

35184. (a) Notwithstanding any other provision of law, the governing board of a high school district may enter into a contract with the governing board of any of its feeder elementary school districts to provide instruction at the schools of the high school district to all or a portion of the pupils enrolled in the sixth grade at the contracting elementary school district.

(b) For the purpose of computing allowances and apportionments pursuant to Chapter 4 (commencing with Section

41600) and Article 2 (commencing with Section 42230) of Chapter 7 of Part 24, the contracting elementary school shall continue to report average daily attendance for those sixth grade pupils. Upon receipt of any funds allocated to the elementary school district based upon the average daily attendance reported for those sixth grade pupils, the contracting elementary school district shall transfer those moneys to the contracting high school district.

SEC. 4. Section 37700 of the Education Code is repealed.

SEC. 5. Section 37700 is added to the Education Code, to read:

37700. (a) Notwithstanding any other provision of law, the Pacific Unified School District and the Leggett Valley Unified School District may operate one or more schools in their respective districts on a four-day school week, so long as the district complies with the instructional time requirements specified in Section 37701 and the other requirements of this chapter.

(b) If a school district operates one or more schools on a four-day week pursuant to this section and the program for the school year provides less than the 180 days of instruction required under Section 46200, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for that fiscal year by the amount the school district would have received for the increase received pursuant to subdivision (a) of Section 46200, as adjusted in fiscal years subsequent to the 1984–85 fiscal year. If a school district operates one or more schools on a four-day school week pursuant to this section and the program provides less than the minimum instructional minutes required under Section 46201, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for that fiscal year in which the reduction occurs by the amount the school district would have received for the increase in the 1987–88 fiscal year base revenue limit per unit of average daily attendance pursuant to paragraph (4) of subdivision (b) of Section 42238, as adjusted in the 1987–88 fiscal year and fiscal years thereafter.

SEC. 5.3. Section 37705.5 of the Education Code is repealed.

SEC. 5.5. 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 the 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 who is a member of the American Academy of Actuaries 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 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. 6. Section 41020.6 of the Education Code is amended to read:

41020.6. On June 30, 1979, and each year thereafter, the State Department of Education shall report to the Joint Legislative Audit Committee on the actions taken by the department to eliminate audit exceptions and comply with management improvement recommendations.

SEC. 7. Section 41851.2 of the Education Code is amended to read:

41851.2. No later than December 31, 1992, the Superintendent of Public Instruction shall develop and disseminate nonprescriptive

guidelines for use by individualized education program teams during their annual reviews pursuant to Section 56343. The guidelines shall clarify when special education transportation services, as defined in Section 41850, are required. The guidelines shall be developed in accordance with Section 33308.5 and shall be exemplary in nature.

SEC. 8. Section 42238.16 of the Education Code is repealed.

SEC. 8.7. Section 42242 of the Education Code is amended to read:

42242. The Superintendent of Public Instruction shall determine at the time of each apportionment the proposed receipts and expenditures of funds under the provisions of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.). In the event that the proposed distribution of funds results in funds not being expended, those funds are hereby reappropriated for reallocation for local entitlements for special education.

This section shall become operative July 1, 1984.

SEC. 9. Section 45243 of the Education Code is amended to read:

45243. In any district that has adopted the provisions of this article there shall be appointed a personnel commission composed of either three or five members. The governing board of any school district, by majority vote, and with the agreement of the existing personnel commission of the district, if that commission is in existence, may elect to increase the membership of the personnel commission from three to five members or to decrease the membership from five to three members. If two or more districts are under the jurisdiction of governing boards of identical personnel, only one commission shall be appointed. In those cases this article shall apply alike to all of the districts, and the expenses of the commission shall be paid out of the general funds of all of the districts in proportion to the benefits derived therefrom as determined by the governing board.

SEC. 9.2. 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 or her 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 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."

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.

(c) For purposes of reporting pupil attendance for any purpose to an agency of the federal government, the phrase "total days of attendance of a pupil" shall be defined only as set forth in subdivision (a).

SEC. 9.5. Section 46111 of the Education Code is amended to read:

46111. No pupil in a kindergarten shall be kept in school in any day more than four hours exclusive of recesses except for pupils in Early Primary Programs, as set forth in Chapter 8 (commencing with Section 8970) of Part 6.

This section shall not apply to the Pasadena Unified School District or counties of the third class as determined pursuant to Section 28024 of the Government Code, as it read on January 1, 1977. In addition, this section shall not apply to the San Bernardino Unified School District with regard to any pupil of that district who is determined by the principal of the school in which that pupil is enrolled, pursuant to testing, teacher recommendation, or both, to be developmentally and academically suited for the longer instructional day.

SEC. 9.6. Section 48204 of the Education Code, as amended by Chapter 507 of the Statutes of 1992, is amended to read:

48204. Notwithstanding Section 48200, a pupil shall be deemed to have complied with the residency requirements for school attendance in a school district, provided he or she is any of the following:

(a) A pupil placed within the boundaries of that school district in a regularly established licensed children's institution, or a licensed foster home, or a family home pursuant to a commitment or placement under Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code.

An agency placing a pupil in a home or institution described in this subdivision shall provide evidence to the school that the placement

or commitment is pursuant to law.

(b) A pupil for whom interdistrict attendance has been approved pursuant to Chapter 5 (commencing with Section 46600) of Part 26 of Division 3 of this title.

(c) A pupil whose residence is located within the boundaries of that school district and whose parent or legal guardian is relieved of responsibility, control, and authority through emancipation.

(d) A pupil whose parent or legal guardian has established the residence of the pupil in a home located within the boundaries of that school district, provided that home is properly licensed if licensure is required by law. The person maintaining the home shall provide evidence to the school that a current license is in effect, that he or she is among a class of relatives of the pupil that is exempted in law or regulations from the requirement of licensure with regard to that pupil, or that a license is for other reasons not required under the law.

(e) A pupil residing in a state hospital located within the boundaries of that school district.

(f) An elementary school pupil, one or both of whose parents, or whose legal guardian, is employed within the boundaries of that school district.

(1) Nothing in this subdivision requires the school district within which the pupil's parents or guardians are employed to admit the pupil to its schools. Districts may not, however, refuse to admit pupils under this subdivision on the basis, except as expressly provided in this subdivision, of race, ethnicity, sex, parental income, scholastic achievement, or any other arbitrary consideration.

(2) The school district in which the residency of either the pupil's parents or guardians is established, or the school district to which the pupil is to be transferred under this subdivision, may prohibit the transfer of the pupil under this subdivision if the governing board of the district determines that the transfer would negatively impact the district's court-ordered or voluntary desegregation plan.

(3) The school district to which the pupil is to be transferred under this subdivision may prohibit the transfer of the pupil if the district determines that the additional cost of educating the pupil would exceed the amount of additional state aid received as a result of the transfer.

(4) Any district governing board prohibiting a transfer pursuant to paragraph (1), (2), or (3) shall identify, and communicate in writing to the pupil's parent or guardian, the specific reasons for that determination and shall ensure that the determination, and the specific reasons therefor, are accurately recorded in the minutes of the board meeting in which the determination was made.

(5) The average daily attendance for pupils admitted pursuant to this subdivision shall be calculated pursuant to Section 46607.

(6) Unless approved by the sending district, this subdivision does not authorize a net transfer of pupils out of any given district, calculated as the difference between the number of pupils exiting

the district and the number of pupils entering the district, in any fiscal year in excess of the following amounts:

(A) For any district with an average daily attendance for that fiscal year of less than 501, 5 percent of the average daily attendance of the district.

(B) For any district with an average daily attendance for that fiscal year of 501 or more, but less than 2501, 3 percent of the average daily attendance of the district or 25 pupils, whichever is greater.

(C) For any district with an average daily attendance of 2501 or more, 1 percent of the average daily attendance of the district or 75 pupils, whichever is greater.

Once a pupil is deemed to have complied with the residency requirements for school attendance pursuant to this subdivision and is enrolled in a school in a school district whose boundaries include the location where one parent or both parents of a pupil is employed, or where a pupil's legal guardian is employed, the pupil shall not have to reapply in the next school year to attend a school within that school district.

(g) 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 before June 30, 1995, deletes or extends that date. If that date is not deleted or extended, then, on and after July 1, 1995, pursuant to Section 9611 of the Government Code, Section 48204 of the Education Code, as amended by Section 3 of Chapter 1191 of the Statutes of 1980, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 9.7. Section 48204 of the Education Code, as amended by Chapter 1191 of the Statutes of 1980, is amended to read:

48204. Notwithstanding Section 48200, a pupil shall be deemed to have complied with the residency requirements for school attendance in a school district, provided he or she is:

(a) A pupil placed within the boundaries of that school district in a regularly established licensed children's institution, or a licensed foster home, or a family home pursuant to a commitment or placement under Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code.

An agency placing a pupil in the home or institution shall provide evidence to the school that the placement or commitment is pursuant to law.

(b) A pupil for whom interdistrict attendance has been approved pursuant to the provisions of Chapter 5 (commencing with Section 46600) of Part 26 of Division 3 of this title.

(c) A pupil whose residence is located within the boundaries of that school district and whose parent or legal guardian is relieved of responsibility, control, and authority through emancipation.

(d) A pupil whose parent or legal guardian has established the residence of the pupil in a home located within the boundaries of that school district, provided the home is properly licensed if licensure is required by law. The person maintaining the home shall

provide evidence to the school that a current license is in effect, that he or she is among a class of relatives that is exempted in law or regulations from the requirement of licensure with regard to that pupil, or that a license is for other reasons not required under the law.

(e) A pupil residing in a state hospital located within the boundaries of that school district.

SEC. 9.8. Section 48204 of the Education Code, as amended by Chapter 507 of the Statutes of 1992, is amended to read:

48204. Notwithstanding Section 48200, a pupil shall be deemed to have complied with the residency requirements for school attendance in a school district, provided he or she is any of the following:

(a) A pupil placed within the boundaries of that school district in a regularly established licensed children's institution, or a licensed foster home, or a family home pursuant to a commitment or placement under Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code.

An agency placing a pupil in a home or institution described in this subdivision shall provide evidence to the school that the placement or commitment is pursuant to law.

(b) A pupil for whom interdistrict attendance has been approved pursuant to Chapter 5 (commencing with Section 46600) of Part 26 of Division 3 of this title.

(c) A pupil whose residence is located within the boundaries of that school district and whose parent or legal guardian is relieved of responsibility, control, and authority through emancipation.

(d) A pupil whose residence has been established by his or her parent or legal guardian, or under other authority in a home located within the boundaries of that school district, provided that home is properly licensed if licensure is required by law. The person maintaining the home shall provide evidence to the school that a current license is in effect, that he or she is among a class of relatives of the pupil that is exempted in law or regulations from the requirement of licensure with regard to that pupil, or that a license is for other reasons not required under the law. For the purposes of this subdivision, a home for which a license is not required under the law includes, but is not limited to, the home of a relative caregiver appointed pursuant to Chapter 7 (commencing with Section 3850) of Part 8 of Division 4 of the Probate Code. Appointment of a relative caregiver pursuant to that chapter shall be accepted by the school district as conclusive evidence that the minor's residence has been established in the relative caregiver's home.

(e) A pupil residing in a state hospital located within the boundaries of that school district.

(f) An elementary school pupil, one or both of whose parents, or whose legal guardian, is employed within the boundaries of that school district.

(1) Nothing in this subdivision requires the school district within

which the pupil's parents or guardians are employed to admit the pupil to its schools. Districts may not, however, refuse to admit pupils under this subdivision on the basis, except as expressly provided in this subdivision, of race, ethnicity, sex, parental income, scholastic achievement, or any other arbitrary consideration.

(2) The school district in which the residency of either the pupil's parents or guardians is established, or the school district to which the pupil is to be transferred under this subdivision, may prohibit the transfer of the pupil under this subdivision if the governing board of the district determines that the transfer would negatively impact the district's court-ordered or voluntary desegregation plan.

(3) The school district to which the pupil is to be transferred under this subdivision may prohibit the transfer of the pupil if the district determines that the additional cost of educating the pupil would exceed the amount of additional state aid received as a result of the transfer.

(4) Any district governing board prohibiting a transfer pursuant to paragraph (1), (2), or (3) shall identify, and communicate in writing to the pupil's parent or guardian, the specific reasons for that determination and shall ensure that the determination, and the specific reasons therefor, are accurately recorded in the minutes of the board meeting in which the determination was made.

(5) The average daily attendance for pupils admitted pursuant to this subdivision shall be calculated pursuant to Section 46607.

(6) Unless approved by the sending district, this subdivision does not authorize a net transfer of pupils out of any given district, calculated as the difference between the number of pupils exiting the district and the number of pupils entering the district, in any fiscal year in excess of the following amounts:

(A) For any district with an average daily attendance for that fiscal year of less than 501, 5 percent of the average daily attendance of the district.

(B) For any district with an average daily attendance for that fiscal year of 501 or more, but less than 2501, 3 percent of the average daily attendance of the district or 25 pupils, whichever is greater.

(C) For any district with an average daily attendance of 2501 or more, 1 percent of the average daily attendance of the district or 75 pupils, whichever is greater.

Once a pupil is deemed to have complied with the residency requirements for school attendance pursuant to this subdivision and is enrolled in a school in a school district whose boundaries include the location where one parent or both parents of a pupil is employed, or where a pupil's legal guardian is employed, the pupil shall not have to reapply in the next school year to attend a school within that school district.

(g) 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 before June 30, 1995, deletes or extends that date. If that date is not deleted or extended, then, on and after July 1, 1995, pursuant

to Section 9611 of the Government Code, Section 48204 of the Education Code, as amended by Section 3 of Chapter 1191 of the Statutes of 1980, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 9.9. Section 48204 of the Education Code, as amended by Chapter 1191 of the Statutes of 1980, is amended to read:

48204. Notwithstanding Section 48200, a pupil shall be deemed to have complied with the residency requirements for school attendance in a school district, provided he or she is:

(a) A pupil placed within the boundaries of that school district in a regularly established licensed children's institution, or a licensed foster home, or a family home pursuant to a commitment or placement under Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code.

An agency placing a pupil in the home or institution shall provide evidence to the school that the placement or commitment is pursuant to law.

(b) A pupil for whom interdistrict attendance has been approved pursuant to the provisions of Chapter 5 (commencing with Section 46600) of Part 26 of Division 3 of this title.

(c) A pupil whose residence is located within the boundaries of that school district and whose parent or legal guardian is relieved of responsibility, control, and authority through emancipation.

(d) A pupil whose residence has been established by his or her parent or legal guardian, or under other authority, in a home located within the boundaries of that school district, provided the home is properly licensed if licensure is required by law. The person maintaining such a home shall provide evidence to the school that a current license is in effect, that he or she is among a class of relatives of the pupil that is exempted in law or regulations from the requirement of licensure with regard to that pupil, or that a license is for other reasons not required under the law. For the purposes of this subdivision, a home for which a license is not required under the law includes, but is not limited to, the home of a relative caregiver appointed pursuant to Chapter 7 (commencing with Section 3850) of Part 8 of Division 4 of the Probate Code. Appointment of a relative caregiver pursuant to that chapter shall be accepted by the school district as conclusive evidence that the minor's residence has been established in the relative caregiver's home.

(e) A pupil residing in a state hospital located within the boundaries of that school district.

SEC. 10. Section 48410 of the Education Code is amended to read:

48410. There are exempted from compulsory attendance in continuing education classes as otherwise required by Sections 48400 and 48402, persons who:

(a) Have been graduated from a high school maintaining a four-year course above the eighth grade of the elementary schools, or who have had an equal amount of education in a private school or from a private tutor.

(b) Are in attendance upon a public or private full-time day school, or satisfactory part-time classes maintained by other agencies.

(c) Are disqualified for attendance in these classes because of their physical or mental condition, or because of personal services that must be rendered to their dependents.

(d) Are satisfactorily attending a regional occupational program or center as provided in Section 48432.

(e) Have successfully demonstrated proficiency equal to or greater than standards established by the State Department of Education pursuant to Section 48412, and have verified approval submitted by their parent or guardian.

(f) Are subject to Section 48400 but not Section 48402 and are in attendance upon classes for adults for not less than four clock hours per calendar week.

(g) Are exempt from compulsory school attendance under Section 48231.

SEC. 10.5. Section 48980 of the Education Code is amended to read:

48980. (a) At the beginning of the first semester or quarter of the regular school term, the governing board of each school district shall notify the parent or guardian of its minor pupils regarding the right or responsibility of the parent or guardian under Sections 35291, 46014, 48205, 48207, 48208, 49403, 49423, 49451, 49472, 51240, and 51550, and Chapter 2.3 (commencing with Section 32255) of Part 19.

(b) The notification also shall advise the parent or guardian of the availability of individualized instruction as prescribed by Section 48206.3, and of the program prescribed by Article 9 (commencing with Section 49510) of Chapter 9.

(c) The notification also may advise the parent or guardian of the importance of investing for future college or university education for their children and of considering appropriate investment options including, but not limited to, United States Savings Bonds.

(d) School districts that elect to provide a fingerprinting program pursuant to Article 10 (commencing with Section 32390) shall inform parents or guardians of the program as specified in Section 32390.

(e) Until June 30, 1995, the notification also shall advise the parent or guardian of the availability of the employment-based school attendance options pursuant to subdivision (f) of Section 48204.

(f) The notification also shall include a copy of the district's written policy on sexual harassment established pursuant to Section 212.6, as it relates to pupils.

(g) The notification shall advise the parent or guardian of all current statutory attendance options and local attendance options available in the school district. That notification shall include all options for meeting residency requirements for school attendance, programmatic options offered within the local attendance areas, and any special programmatic options available on both an interdistrict and intradistrict basis. That notification also shall include a description of all options, a description of the procedure for

application for alternative attendance areas or programs, an application form from the district for requesting a change of attendance, and a description of the appeals process available, if any, for a parent or guardian denied a change of attendance. It is the intent of the Legislature that the governing board of each school district annually review the enrollment options available to the pupils within their districts and that the school districts strive to make available enrollment options that meet the diverse needs, potential, and interests of California's pupils. This subdivision shall become operative on January 1, 1994.

SEC. 10.7. Section 48980 of the Education Code is amended to read:

48980. (a) At the beginning of the first semester or quarter of the regular school term, the governing board of each school district shall notify the parent or guardian of its minor pupils regarding the right or responsibility of the parent or guardian under Sections 35291, 46014, 48205, 48207, 48208, 49403, 49423, 49451, 49472, 51240, and 51550 and Chapter 2.3 (commencing with Section 32255) of Part 19.

(b) The notification also shall advise the parent or guardian of the availability of individualized instruction as prescribed by Section 48206.3, and of the program prescribed by Article 9 (commencing with Section 49510) of Chapter 9.

(c) The notification also may advise the parent or guardian of the importance of investing for future college or university education for their children and of considering appropriate investment options including, but not limited to, United States Savings Bonds.

(d) Each school district that elects to provide a fingerprinting program pursuant to Article 10 (commencing with Section 32390) shall inform parents or guardians of the program as specified in Section 32390.

(e) Until June 30, 1995, the notification shall also advise the parent or guardian of the availability of the employment-based school attendance options pursuant to subdivision (f) of Section 48204.

(f) The notification shall also include a copy of the district's written policy on sexual harassment established pursuant to Section 212.6, as it relates to pupils.

(g) The notification shall advise the parent or guardian of all current statutory attendance options and local attendance options available in the school district. That notification shall include all options for meeting residency requirements for school attendance, programmatic options offered within the local attendance areas, and any special programmatic options available on both an interdistrict and intradistrict basis. That notification shall also include a description of all options, a description of the procedure for application for alternative attendance areas or programs, an application form from the district for requesting a change of attendance, and a description of the appeals process available, if any, for a parent or guardian denied a change of attendance. The notification shall also include an explanation of the current statutory

attendance options including, but not limited to, those available under Section 35160.5, Chapter 5 (commencing with Section 46600) of Part 26, subdivision (f) of Section 48204, and Article 1.5 (commencing with Section 48209) of Chapter 2 of Part 27. The State Department of Education shall produce this portion of the notification and shall distribute it to all school districts.

It is the intent of the Legislature that the governing board of each school district annually review the enrollment options available to the pupils within their districts and that the school districts strive to make available enrollment options that meet the diverse needs, potential, and interests of California's pupils.

SEC. 11. Section 49533 of the Education Code is amended to read:

49533. A Child Nutrition Advisory Council composed of 13 members, shall be appointed by January 1, 1975, to recommend plans and guidelines for school and child care meal service and nutrition education programs. The members of the council shall be appointed by the State Board of Education and shall include one member of the State Department of Education, one school administrator, one school board member, one school food service director, one school food service supervisor or manager, one classroom teacher, one curriculum coordinator, one nutrition education specialist, one lay person, one child care food program sponsor, one secondary high school student, one representative from a recognized parent-teacher organization, and a qualified consultant specializing in nutrition, education, child care, or health and welfare.

The members shall serve for a term of three years, except the student representative, who shall serve a one year term. Council members shall serve without pay but shall be reimbursed for authorized travel costs according to established State Department of Education procedures.

SEC. 11.1. Section 51747.5 of the Education Code is amended to read:

51747.5. (a) The independent study by each pupil or student shall be coordinated, evaluated, and, notwithstanding subdivision (a) of Section 46300, shall be under the general supervision of an employee of the school district or county office of education who possesses a valid certification document pursuant to Section 44865, registered as required by law.

(b) School districts and county offices of education may claim apportionment credit for independent study only to the extent of the time value of pupil or student work products, as personally judged in each instance by a certificated teacher.

SEC. 11.3. Section 51768 of the Education Code is amended to read:

51768. The governing board of any school district providing work experience and work study education may provide for employment under the program of pupils in part-time jobs located in areas outside the district, either within this state or in a contiguous state, and the employment may be by any public or private employer. The districts

may pay wages to persons receiving the training whether assigned within or without the district and may provide workers' compensation insurance as may be necessary, but no payments may be made to or for private employers. However, wages to individuals with exceptional needs, as defined in Section 56026, may be paid to or for private employers as part of work experience programs funded through the annual Budget Act for these individuals.

SEC. 11.5. Section 52860 of the Education Code is amended to read:

52860. If a school district and school choose to include within the provisions of this article funds allocated pursuant to Part 30 (commencing with Section 56000), the school district shall comply with all requirements of that part, except that: (1) resource specialist program services, designated instruction and services, and team teaching for special day classes for learning disabled pupils may be provided to pupils who have not been identified as individuals with exceptional needs, provided that all identified individuals with exceptional needs are appropriately served and a description of the services is included in the schoolsite plan; (2) programs for individuals with exceptional needs shall be under the direction of credentialed special education personnel, but services may be provided entirely by personnel not funded by special education moneys, provided that all services specified in the individualized education program are received by the pupil.

SEC. 11.6. Section 54657 of the Education Code is amended to read:

54657. The governing board of each school district which elects to participate in the Education Improvement Incentive Program shall certify to the Superintendent of Public Instruction the number of pupils enrolled in the district which have been exempted from the testing program conducted pursuant to Section 60603. The superintendent shall compare this number with the unduplicated count of individuals with exceptional needs reported by age and disabling conditions by the district to the superintendent as a condition of receiving federal funding pursuant to the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.). If the superintendent determines that the governing board has exempted an excessive number of pupils from the testing program, the superintendent shall proportionately reduce the district's total incentive funding calculated pursuant to Section 54654.

SEC. 11.7. Section 56000 of the Education Code is amended to read:

56000. The Legislature finds and declares that all individuals with exceptional needs have a right to participate in free appropriate public education and that special educational instruction and services for these persons are needed in order to ensure them of the right to an appropriate educational opportunity to meet their unique needs.

It is the intent of the Legislature to unify and improve special

education programs in California under the flexible program design of the Master Plan for Special Education. It is the further intent of the Legislature to assure that all individuals with exceptional needs are provided their rights to appropriate programs and services which are designed to meet their unique needs under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

It is the further intent of the Legislature that nothing in this part shall be construed to abrogate any right provided individuals with exceptional needs and their parents or guardians under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.). It is also the intent of the Legislature that nothing in this part shall be construed to set a higher standard of educating individuals with exceptional needs than that established by Congress under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

It is the further intent of the Legislature that the Master Plan for Special Education provide an educational opportunity for individuals with exceptional needs that is equal to or better than that provided prior to the implementation of programs under this part, including, but not limited to, those provided to individuals previously served in a development center for handicapped pupils.

It is the intent of the Legislature that the restructuring of special education programs as set forth in the Master Plan for Special Education be implemented in accordance with provisions of this part by all school districts and county offices during a two-year transitional period commencing with fiscal year 1980–81, with full implementation to be completed by June 30, 1982.

SEC. 11.8. Section 56001 of the Education Code, as amended by Chapter 759 of the Statutes of 1992, is amended to read:

56001. It is the intent of the Legislature that special education programs provide all of the following:

(a) Each individual with exceptional needs is assured an education appropriate to his or her needs in publicly supported programs through completion of his or her prescribed course of study or until the time that he or she has met proficiency standards prescribed pursuant to Sections 51215 and 51216.

(b) By June 30, 1991, early educational opportunities shall be available to all children between the ages of three and five years, inclusive, who require special education and services.

(c) Early educational opportunities shall be made available to children younger than three years of age pursuant to Chapter 4.4 (commencing with Section 56425), appropriate sections of this part, and the California Early Intervention Service Act, Title 14 (commencing with Section 95000) of the Government Code.

(d) Any child younger than three years, potentially eligible for special education, shall be afforded the protections provided pursuant to the California Early Intervention Services Act, Title 14 (commencing with Section 95000) of the Government Code and Section 1480 of Title 20 of the United States Code and implementing

regulations.

(e) Each individual with exceptional needs shall have his or her educational goals, objectives, and special education and related services specified in a written individualized education program.

(f) Education programs are provided under an approved local plan for special education that sets forth the elements of the programs in accordance with this part. This plan for special education shall be developed cooperatively with input from the community advisory committee and appropriate representation from special and regular teachers and administrators selected by the groups they represent to ensure effective participation and communications.

(g) Individuals with exceptional needs are offered special assistance programs that promote maximum interaction with the general school population in a manner that is appropriate to the needs of both.

(h) Pupils be transferred out of special education programs when special education services are no longer needed.

(i) The unnecessary use of labels is avoided in providing special education and related services for individuals with exceptional needs.

(j) Procedures and materials for assessment and placement of individuals with exceptional needs shall be selected and administered so as not to be racially, culturally, or sexually discriminatory. No single assessment instrument shall be the sole criterion for determining placement of a pupil. The procedures and materials for assessment and placement shall be in the individual's mode of communication. Procedures and materials for use with pupils of limited English proficiency, as defined in subdivision (m) of Section 52163, shall be in the individual's primary language. All assessment materials and procedures shall be selected and administered pursuant to Section 56320.

(k) Educational programs are coordinated with other public and private agencies, including preschools, child development programs, nonpublic nonsectarian schools, regional occupational centers and programs, and postsecondary and adult programs for individuals with exceptional needs.

(*l*) Psychological and health services for individuals with exceptional needs shall be available to each schoolsite.

(m) Continuous evaluation of the effectiveness of these special education programs by the school district, special education local plan area, or county office shall be made to ensure the highest quality educational offerings.

(n) Appropriate qualified staff are employed, consistent with credentialing requirements, to fulfill the responsibilities of the local plan and that positive efforts to employ qualified individuals with disabilities are made.

(o) Regular and special education personnel are adequately prepared to provide educational instruction and services to

individuals with exceptional needs.

(p) This section shall remain in effect only until California terminates its participation in special education programs for individuals with exceptional needs between the ages of three and five years, pursuant to Section 56448, and as of that date is repealed.

SEC. 11.9. Section 56001 of the Education Code, as added by Chapter 311 of the Statutes of 1987, is amended to read:

56001. It is the intent of the Legislature that special education programs provide all of the following:

(a) Each individual with exceptional needs is assured an education appropriate to his or her needs in publicly supported programs through completion of his or her prescribed course of study or until the time that he or she has met proficiency standards prescribed pursuant to Sections 51215 and 51216.

(b) Early educational opportunities are available to all children between the ages of three and four years and nine months who require intensive special education and services.

(c) Early educational opportunities shall be made available to children younger than three years of age pursuant to Chapter 4.4 (commencing with Section 56425), appropriate sections of this part, and the California Early Intervention Service Act, Title 14 (commencing with Section 95000) of the Government Code.

(d) Any child younger than three years, potentially eligible for special education shall be afforded the protections provided pursuant to the California Early Intervention Services Act, Title 14 (commencing with Section 95000) of the Government Code and Section 1480 of Title 20 of the United States Code and implementing regulations.

(e) Each individual with exceptional needs shall have his or her educational goals, objectives, and special education and related services specified in a written individualized education program.

(f) Education programs are provided under an approved local plan for special education that sets forth the elements of the programs in accordance with the provisions of this part. This plan for special education shall be developed cooperatively with input from the community advisory committee and appropriate representation from special and regular teachers and administrators selected by the groups they represent to ensure effective participation and communications.

(g) Individuals with exceptional needs are offered special assistance programs that promote maximum interaction with the general school population in a manner which is appropriate to the needs of both.

(h) Pupils be transferred out of special education programs when special education services are no longer needed.

(i) The unnecessary use of labels is avoided in providing special education and related services for individuals with exceptional needs.

(j) Procedures and materials for assessment and placement of

individuals with exceptional needs shall be selected and administered so as not to be racially, culturally, or sexually discriminatory. No single assessment instrument shall be the sole criterion for determining placement of a pupil. The procedures and materials for assessment and placement shall be in the individual's mode of communication. Procedures and materials for use with pupils of limited-English proficiency as defined in subdivision (m) of Section 52163, shall be in the individual's primary language. All assessment materials and procedures shall be selected and administered pursuant to Section 56320.

(k) Educational programs are coordinated with other public and private agencies, including preschools, child development programs, nonpublic, nonsectarian schools, regional occupational centers and programs, and postsecondary and adult programs for individuals with exceptional needs.

(*l*) Psychological and health services for individuals with exceptional needs shall be available to each schoolsite.

(m) Continuous evaluation of the effectiveness of these special education programs by the school district, special education local plan area, or county office shall be made to ensure the highest quality educational offerings.

(n) Appropriate qualified staff are employed, consistent with credentialing requirements, to fulfill the responsibilities of the local plan and that positive efforts to employ qualified individuals with disabilities are made.

(o) Regular and special education personnel are adequately prepared to provide educational instruction and services to individuals with exceptional needs.

(p) This section shall become operative on the date that California terminates its participation in special education programs for individuals with exceptional needs between the ages of three and five years, pursuant to Section 56448.

SEC. 11.91. Section 56001 of the Education Code, as amended by Chapter 759 of the Statutes of 1992, is amended to read:

56001. It is the intent of the Legislature that special education programs provide all of the following:

(a) Each individual with exceptional needs is assured an education appropriate to his or her needs in publicly supported programs through completion of his or her prescribed course of study or until the time that he or she has met proficiency standards prescribed pursuant to Sections 51215 and 51216.

(b) By June 30, 1991, early educational opportunities shall be available to all children between the ages of three and five years, inclusive, who require special education and services.

(c) Early educational opportunities shall be made available to children younger than three years of age pursuant to Chapter 4.4 (commencing with Section 56425), appropriate sections of this part, and the California Early Intervention Services Act, Title 14 (commencing with Section 95000) of the Government Code.

(d) Any child younger than three years, who is potentially eligible for special education, shall be afforded the protections provided pursuant to the California Early Intervention Services Act, Title 14 (commencing with Section 95000) of the Government Code and Section 1480 of Title 20 of the United States Code and implementing regulations.

(e) Each individual with exceptional needs shall have his or her educational goals, objectives, and special education and related services specified in a written individualized education program.

(f) Education programs are provided under an approved local plan for special education that sets forth the elements of the programs in accordance with this part. This plan for special education shall be developed cooperatively with input from the community advisory committee and appropriate representation from special and regular teachers and administrators selected by the groups they represent to ensure effective participation and communication.

(g) Individuals with exceptional needs are offered special assistance programs that promote maximum interaction with the general school population in a manner that is appropriate to the needs of both, taking into consideration, for hard-of-hearing or deaf children, the individual's needs for a sufficient number of age and language mode peers and for special education teachers who are proficient in the individual's primary language mode.

(h) Pupils be transferred out of special education programs when special education services are no longer needed.

(i) The unnecessary use of labels is avoided in providing special education and related services for individuals with exceptional needs.

(j) Procedures and materials for assessment and placement of individuals with exceptional needs shall be selected and administered so as not to be racially, culturally, or sexually discriminatory. No single assessment instrument shall be the sole criterion for determining placement of a pupil. The procedures and materials for assessment and placement shall be in the individual's mode of communication. Procedures and materials for use with pupils of limited English proficiency, as defined in subdivision (m) of Section 52163, shall be in the individual's primary language. All assessment materials and procedures shall be selected and administered pursuant to Section 56320.

(k) Educational programs are coordinated with other public and private agencies, including preschools, child development programs, nonpublic nonsectarian schools, regional occupational centers and programs, and postsecondary and adult programs for individuals with exceptional needs.

(*l*) Psychological and health services for individuals with exceptional needs shall be available to each schoolsite.

(m) Continuous evaluation of the effectiveness of these special education programs by the school district, special education local

plan area, or county office shall be made to ensure the highest quality educational offerings.

(n) Appropriate qualified staff are employed, consistent with credentialing requirements, to fulfill the responsibilities of the local plan and positive efforts are made to employ qualified handicapped individuals.

(o) Regular and special education personnel are adequately prepared to provide educational instruction and services to individuals with exceptional needs.

(p) This section shall remain in effect only until California terminates its participation in special education programs for individuals with exceptional needs between the ages of three and five years, pursuant to Section 56448, and as of that date is repealed.

SEC. 11.92. Section 56001 of the Education Code, as added by Chapter 311 of the Statutes of 1987, is amended to read:

56001. It is the intent of the Legislature that special education programs provide all of the following:

(a) Each individual with exceptional needs is assured an education appropriate to his or her needs in publicly supported programs through completion of his or her prescribed course of study or until the time that he or she has met proficiency standards prescribed pursuant to Sections 51215 and 51216.

(b) Early educational opportunities are available to all children between the ages of three and four years and nine months who require intensive special education and services.

(c) Early educational opportunities shall be made available to children younger than three years of age pursuant to Chapter 4.4 (commencing with Section 56425), appropriate sections of this part, and the California Early Intervention Services Act, Title 14 (commencing with Section 95000) of the Government Code.

(d) Any child younger than three years, who is potentially eligible for special education, shall be afforded the protections provided pursuant to the California Early Intervention Services Act, Title 14 (commencing with Section 95000) of the Government Code and Section 1480 of Title 20 of the United States Code and implementing regulations.

(e) Each individual with exceptional needs shall have his or her educational goals, objectives, and special education and related services specified in a written individualized education program.

(f) Education programs are provided under an approved local plan for special education that sets forth the elements of the programs in accordance with the provisions of this part. This plan for special education shall be developed cooperatively with input from the community advisory committee and appropriate representation from special and regular teachers and administrators selected by the groups they represent to ensure effective participation and communication.

(g) Individuals with exceptional needs are offered special assistance programs that promote maximum interaction with the

general school population in a manner which is appropriate to the needs of both, taking into consideration, for hard-of-hearing or deaf children, the individual's needs for a sufficient number of age and language mode peers and for special education teachers who are proficient in the individual's primary language mode.

(h) Pupils be transferred out of special education programs when special education services are no longer needed.

(i) The unnecessary use of labels is avoided in providing special education and related services for individuals with exceptional needs.

(j) Procedures and materials for assessment and placement of individuals with exceptional needs shall be selected and administered so as not to be racially, culturally, or sexually discriminatory. No single assessment instrument shall be the sole criterion for determining placement of a pupil. The procedures and materials for assessment and placement shall be in the individual's mode of communication. Procedures and materials for use with pupils of limited-English proficiency as defined in subdivision (m) of Section 52163, shall be in the individual's primary language. All assessment materials and procedures shall be selected and administered pursuant to Section 56320.

(k) Educational programs are coordinated with other public and private agencies, including preschools, child development programs, nonpublic, nonsectarian schools, regional occupational centers and programs, and postsecondary and adult programs for individuals with exceptional needs.

(*l*) Psychological and health services for individuals with exceptional needs shall be available to each schoolsite.

(m) Continuous evaluation of the effectiveness of these special education programs by the school district, special education local plan area, or county office shall be made to ensure the highest quality educational offerings.

(n) Appropriate qualified staff are employed, consistent with credentialing requirements, to fulfill the responsibilities of the local plan and positive efforts are made to employ qualified handicapped individuals.

(o) Regular and special education personnel are adequately prepared to provide educational instruction and services to individuals with exceptional needs.

(p) This section shall become operative on the date that California terminates its participation in special education programs for individuals with exceptional needs between the ages of three and five years, pursuant to Section 56448.

SEC. 12. Section 56026 of the Education Code, as amended by Section 1 of Chapter 1361 of the Statutes of 1992, is amended to read:

56026. "Individuals with exceptional needs" means those persons who satisfy all the following:

(a) Identified by an individualized education program team as children with disabilities as that phrase is defined in paragraph (1)

of subdivision (a) of Section 1401 of Title 20 of the United States Code.

(b) Their impairment, as described by subdivision (a), requires instruction, services, or both which cannot be provided with modification of the regular school program.

(c) Come within one of the following age categories:

(1) Younger than three years of age and identified by the district, the special education local plan area, or the county office as requiring intensive special education and services, as defined by the State Board of Education.

(2) Between the ages of three to five years, inclusive, and identified by the district, the special education local plan area, or the county office as requiring intensive special education and services, as defined by the State Board of Education; or between the ages of three and five years, inclusive, and identified by the district, special education local plan area, or county office pursuant to Section 56441.11.

(3) Between the ages of five and 18 years, inclusive.

(4) Between the ages of 19 and 21 years, inclusive; enrolled in or eligible for a program under this part or other special education program prior to his or her 19th birthday; and has not yet completed his or her prescribed course of study or who has not met proficiency standards prescribed pursuant to Sections 51215 and 51216.

(A) Any person who becomes 22 years of age during the months of January to June, inclusive, while participating in a program under this part may continue his or her participation in the program for the remainder of the current fiscal year, including any extended school year program for individuals with exceptional needs established pursuant to regulations adopted by the State Board of Education, pursuant to Article 1 (commencing with Section 56100) of Chapter 2.

(B) Any person otherwise eligible to participate in a program under this part shall not be allowed to begin a new fiscal year in a program if he or she becomes 22 years of age in July, August, or September of that new fiscal year. However, if a person is in a year-round school program and is completing his or her individualized education program in a term that extends into the new fiscal year, then the person may complete that term.

(C) Any person who becomes 22 years of age during the months of October, November, or December while participating in a program under this act shall be terminated from the program on December 31 of the current fiscal year, unless the person would otherwise complete his or her individualized education program at the end of the current fiscal year or unless the person has not had an individual transition plan incorporated into his or her individualized education program and implemented from the age of 20 years, in which case the person shall be terminated from the program at the end of the fiscal year.

(D) No school district, special education local plan area, or county

office of education may develop an individualized education program that extends these eligibility dates, and in no event may a pupil be required or allowed to attend school under the provisions of this part beyond these eligibility dates solely on the basis that the individual has not met his or her goals or objectives.

(d) Meet eligibility criteria set forth in regulations adopted by the board, including, but not limited to, those adopted pursuant to Article 2.5 (commencing with Section 56333) of Chapter 4.

(e) Unless disabled within the meaning of subdivisions (a) to (d), inclusive, pupils whose educational needs are due primarily to unfamiliarity with the English language; temporary physical disabilities; social maladjustment; or environmental, cultural, or economic factors are not individuals with exceptional needs.

(f) This section shall remain in effect only until California terminates its participation in special education programs for individuals with exceptional needs between the ages of three and five years, inclusive, pursuant to Section 56448, and as of that date is repealed.

SEC. 13. Section 56026 as amended by Section 2 of Chapter 1361 of the Statutes of 1992, is amended to read:

56026. "Individuals with exceptional needs" means those persons who satisfy all the following:

(a) Identified by an individualized education program team as children with disabilities as that phrase is defined in paragraph (1) of subdivision (a) of Section 1401 of Title 20 of the United States Code.

(b) Their impairment, as described by subdivision (a), requires instruction, services, or both which cannot be provided with modification of the regular school program.

(c) Come within one of the following age categories:

(1) Younger than three years of age and identified by the district, the special education local plan area, or the county office as requiring intensive special education and services, as defined by the State Board of Education.

(2) Between the ages of three years and four years and nine months, inclusive, and identified by the district, the special education local plan area, or the county office as requiring intensive special education and services, as defined by the State Board of Education.

(3) Between the ages of four years and nine months and 18 years, inclusive.

(4) Between the ages of 19 and 21 years, inclusive; enrolled in or eligible for a program under this part or other special education program prior to his or her 19th birthday; and has not yet completed his or her prescribed course of study or who has not met proficiency standards prescribed pursuant to Sections 51215 and 51216.

(A) Any person who becomes 22 years of age during the months of January to June, inclusive, while participating in a program under this part may continue his or her participation in the program for the

remainder of the current fiscal year, including an extended school year program for individuals with exceptional needs established pursuant to regulations adopted by the State Board of Education pursuant to Article 1 (commencing with Section 56100) of Chapter 2.

(B) Any person otherwise eligible to participate in a program under this part shall not be allowed to begin a new fiscal year if he or she becomes 22 years of age in July, August, or September of that new fiscal year. However, if a person is in a year-round school program and is completing his or her individualized education program in a term that extends into the new fiscal year, then the person may complete that term.

(C) Any person who becomes 22 years of age during the months of October, November, or December while participating in a program under this act shall be terminated from the program on December 31 of the then current fiscal year, unless the person would otherwise complete his or her individualized education program at the end of the current fiscal year or unless the person has not had an individual transition plan incorporated into his or her individual education program and implemented from the age of 20 years, in which case the person shall be terminated from the program at the end of the fiscal year.

(D) No school district, special education local plan area, or county office of education may develop an individualized education program that extends these eligibility dates, and in no event may a pupil be required or allowed to attend school under the provisions of this part beyond these eligibility dates solely on the basis that the individual has not met his or her goals or objectives.

(d) Meet eligibility criteria set forth in regulations adopted by the board, including, but not limited to, those adopted pursuant to Article 2.5 (commencing with Section 56333) of Chapter 4.

(e) Unless disabled within the meaning of subdivisions (a) to (d), inclusive, pupils whose educational needs are due primarily to unfamiliarity with the English language; temporary physical disabilities; social maladjustment; or environmental, cultural, or economic factors are not individuals with exceptional needs.

(f) This section shall become operative on the date that California terminates its participation in special education programs for individuals with exceptional needs between the ages of three and five years, inclusive, pursuant to Section 56448.

SEC. 13.1. Section 56032 is added to the Education Code, to read:

56032. "Individualized education program" means "individualized family service plan" as described in Section 1477 of Title 20 of the United States Code when individualized education program pertains to individuals with exceptional needs younger than three years of age.

SEC. 13.3. Section 56050 of the Education Code is amended to read:

56050. (a) For the purposes of this article, "surrogate parent"

shall be defined as it is defined in Section 300.514 of Title 34 of the Code of Federal Regulations.

(b) A surrogate parent may represent an individual with exceptional needs in matters relating to identification, assessment, instructional planning and development, educational placement, reviewing and revising the individualized education program, and in other matters relating to the provision of a free appropriate education to the individual. Notwithstanding any other provision of law, this representation shall include the provision of written consent to the individualized education program including nonemergency medical services, mental health treatment services, and occupational or physical therapy services pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code. The surrogate parent may sign any consent relating to individualized education program purposes.

(c) A surrogate parent shall be held harmless by the State of California when acting in his or her official capacity except for acts or omissions which are found to have been wanton, reckless, or malicious.

(d) A surrogate parent shall also be governed by Section 7579.5 of the Government Code.

SEC. 13.5. Section 56101 of the Education Code is amended to read:

56101. (a) Any district, special education local plan area, county office, or public education agency, as defined in Section 56500, may request the board to grant a waiver of any provision of this code or regulations adopted pursuant to that provision if the waiver is necessary or beneficial to the content and implementation of the pupil's individualized education program and does not abrogate any right provided individuals with exceptional needs and their parents or guardians under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), or to the compliance of a district, special education local plan area, or county office with the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), Section 504 of, the Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), and federal regulations relating thereto.

(b) The board may grant, in whole or in part, any request pursuant to subdivision (a) when the facts indicate that failure to do so would hinder implementation of the pupil's individualized education program or compliance by a district, special education local plan area, or county office with federal mandates for a free, appropriate education for children or youth with disabilities.

SEC. 13.7. Section 56134 of the Education Code is amended to read:

56134. The superintendent shall perform the duties prescribed by Chapter 4.5 (commencing with Section 56452).

SEC. 14. Section 56135 of the Education Code is amended to read:

56135. (a) The superintendent shall be responsible for assuring provision of, and supervising, education and related services to

individuals with exceptional needs as specifically required pursuant to the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

(b) Nothing in this part shall be construed to authorize the superintendent to prescribe health care services.

SEC. 14.1. Section 56155.5 of the Education Code is amended to read:

56155.5. (a) As used in this article, "licensed children's institution" means a residential facility which is licensed by the state, or other public agency which has delegated authority by contract with the state to license, to provide nonmedical care to children, including, but not limited to, individuals with exceptional needs. "Licensed children's institution" in addition, includes a group home as defined by subdivision (a) of Section 80001 of Title 22 of the California Code of Regulations. As used in this article and Article 8.5 (commencing with Section 56775), a "licensed children's institution" does not include any of the following:

(1) A juvenile court school, juvenile hall, juvenile home, day center, juvenile ranch, or juvenile camp administered pursuant to Article 2 (commencing with Section 48645) of Chapter 4 of Part 27.

(2) A county community school program provided pursuant to Section 1981.

(3) Any special education programs provided pursuant to Section 56150.

(4) Any other public agency.

(b) As used in this article, "foster family home" means a family residence which is licensed by the state, or other public agency which has delegated authority by contract with the state to license, to provide 24-hour nonmedical care and supervision for not more than six foster children, including, but not limited to, individuals with exceptional needs. "Foster family home," in addition, includes a small family home as defined in paragraph (6) of subdivision (a) of Section 1502 of the Health and Safety Code.

SEC. 14.2. Section 56200 of the Education Code is amended to read:

56200. Each local plan submitted to the superintendent under this part shall contain all the following:

(a) Compliance assurances, including general compliance with the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), and this part.

(b) A description of services to be provided by each district and county office. This description shall demonstrate that all individuals with exceptional needs shall have access to services and instruction appropriate to meet their needs as specified in their individualized education programs.

(c) (1) A description of the governance and administration of the plan.

(2) Multidistrict plans, submitted pursuant to subdivision (b) or

(c) of Section 56170, shall specify the responsibilities of each participating county office and district governing board in the policymaking process, the responsibilities of the superintendents of each participating district and county in the implementation of the plan, and the responsibilities of district and county administrators of special education in coordinating the administration of the local plan.

(d) Copies of joint powers agreements or contractual agreements, as appropriate, for districts and counties that elect to enter into those agreements pursuant to subdivision (b) or (c) of Section 56170.

(e) An annual budget plan to allocate instructional personnel service units, support services, and transportation services directly to entities operating those services and to allocate regionalized services funds to the county office, responsible local agency, or other alternative administrative structure. The annual budget plan shall be adopted at a public hearing held by the district, special education local plan area, or county office, as appropriate. Notice of this hearing shall be posted in each school in the local plan area at least 15 days prior to the hearing. The annual budget plan may be revised during the fiscal year, and these revisions may be submitted to the superintendent as amendments to the allocations set forth in the plan. However, the revisions shall, prior to submission to the superintendent, be approved according to the policymaking process, established pursuant to paragraph (2) of subdivision (c).

(f) Verification that the plan has been reviewed by the community advisory committee and that the committee had at least 30 days to conduct this review prior to submission of the plan to the superintendent.

(g) A description of the identification, referral, assessment, instructional planning, implementation, and review in compliance with Chapter 4 (commencing with Section 56300).

(h) A description of the process being utilized to meet the requirements of Section 56303.

SEC. 14.3. Section 56200 of the Education Code is amended to read:

56200. Each local plan submitted to the superintendent under this part shall contain all the following:

(a) Compliance assurances, including general compliance with the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), and this part.

(b) A description of services to be provided by each district and county office. This description shall demonstrate that all individuals with exceptional needs shall have access to services and instruction appropriate to meet their needs as specified in their individualized education programs.

(c) (1) A description of the governance and administration of the plan.

(2) Multidistrict plans, submitted pursuant to subdivision (b) or (c) of Section 56170, shall specify the responsibilities of each

participating county office and district governing board in the policymaking process, the responsibilities of the superintendents of each participating district and county in the implementation of the plan, and the responsibilities of district and county administrators of special education in coordinating the administration of the local plan.

(d) Copies of joint powers agreements or contractual agreements, as appropriate, for districts and counties that elect to enter into those agreements pursuant to subdivision (b) or (c) of Section 56170.

(e) An annual budget plan to allocate instructional personnel service units, support services, and transportation services directly to entities operating those services and to allocate regionalized services funds to the county office, responsible local agency, or other alternative administrative structure. The annual budget plan shall be adopted at a public hearing held by the district, special education local plan area, or county office, as appropriate. Notice of this hearing shall be posted in each school in the local plan area at least 15 days prior to the hearing. The annual budget plan may be revised during the fiscal year, and these revisions may be submitted to the superintendent as amendments to the allocations set forth in the plan. However, the revisions shall, prior to submission to the superintendent, be approved according to the policymaking process, established pursuant to paragraph (2) of subdivision (c).

(f) Verification that the plan has been reviewed by the community advisory committee and that the committee had at least 30 days to conduct this review prior to submission of the plan to the superintendent.

(g) A description of the identification, referral, assessment, instructional planning, implementation, and review in compliance with Chapter 4 (commencing with Section 56300).

(h) A description of the process being utilized to meet the requirements of Section 56303.

(i) A description of the process being utilized to meet the requirements of the California Early Intervention Services Act, Title 14 (commencing with Section 95000) of the Government Code.

SEC. 14.4. Section 56320.1 is added to the Education Code, to read:

56320.1. All identification, evaluation, and assessment procedures for individuals with exceptional needs who are younger than three years of age shall be provided pursuant to Chapter 4.4 (commencing with Section 56425) and the California Early Intervention Services Act, Title 14 (commencing with Section 95000) of the Government Code.

SEC. 14.5. Section 56340.1 is added to the Education Code, to read:

56340.1. All instructional planning procedures for individuals with exceptional needs who are younger than three years of age shall be provided pursuant to Chapter 4.4 (commencing with Section 56425) and the California Early Intervention Services Act, Title 14 (commencing with Section 95000) of the Government Code.

SEC. 14.6. Section 56341 of the Education Code is amended to read:

56341. (a) Each meeting to develop, review, or revise the individualized education program of an individual with exceptional needs, shall be conducted by an individualized education program team.

(b) The individualized education program team shall include all of the following:

(1) A representative other than the pupil's teacher designated by administration who may be an administrator, program specialist, or other specialist who is knowledgeable of program options appropriate for the pupil and who is qualified to provide, or supervise the provision of, special education.

(2) The pupil's present teacher. If the pupil does not presently have a teacher, this representative shall be the teacher with the most recent and complete knowledge of the pupil who has also observed the pupil's educational performance in an appropriate setting. If no teacher is available, this representative shall be a regular classroom teacher referring the pupil, or a special education teacher qualified to teach a pupil of his or her age.

(3) One or both of the pupil's parents, a representative selected by the parent, or both, pursuant to the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

(c) When appropriate, the team shall also include the following persons:

(1) The individual with exceptional needs.

(2) Other individuals, at the discretion of the parent, district, special education local plan area, or county office who possess expertise or knowledge necessary for the development of the individualized education program.

(d) If the team is developing, reviewing, or revising the individualized education program of an individual with exceptional needs who has been assessed for the purpose of that individualized education program, the district, special education local plan area, or county office, shall ensure that a person is present at the meeting who has conducted an assessment of the pupil or who is knowledgeable about the assessment procedures used to assess the pupil and is familiar with the results of the assessment. The person shall be qualified to interpret the results if the results or recommendations, based on the assessment, are significant to the development of the pupil's individualized education program and subsequent placement.

(e) For pupils with suspected learning disabilities, at least one member of the individualized education program team, other than the pupil's regular teacher, shall be a person who has observed the pupil's educational performance in an appropriate setting. If the child is younger than five years or is not enrolled in a school, a team member shall observe the child in an environment appropriate for a child of that age.

(f) The parent shall have the right to present information to the individualized education program team in person or through a representative and the right to participate in meetings relating to eligibility for special education and related services, recommendations, and program planning.

(g) (1) Notwithstanding Section 632 of the Penal Code, the parent, district, special education local plan area, or county office shall have the right to electronically record the proceedings of individualized education program meetings on an audio tape recorder. The parent, district, special education local plan area, or county office shall notify the members of the individualized education program team of their intent to record a meeting at least 24 hours prior to the meeting. If the district, special education local plan area, or county office initiates the notice of intent to audio tape record a meeting and the parent objects or refuses to attend the meeting because it will be tape recorded, then the meeting shall not be recorded on an audio tape recorder.

(2) The Legislature hereby finds as follows:

(A) Under federal law, audio tape recordings made by a district, special education local plan area, or county office are subject to the federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g).

(B) Parents have the right, pursuant to Sections 99.10 to 99.22, inclusive, of Title 34 of the Code of Federal Regulations, to (i) inspect and review the tape recordings, (ii) request that the tape recordings be amended if the parent believes that they contain information that is inaccurate, misleading, or in violation of the rights of privacy or other rights of the individual with exceptional needs, and (iii) challenge, in a hearing, information that the parent believes is inaccurate, misleading, or in violation of individual's rights of privacy or other rights.

(h) It is the intent of the Legislature that the individualized education program team meetings be nonadversarial and convened solely for the purpose of making educational decisions for the good of the individual with exceptional needs.

SEC. 15. Section 56364 of the Education Code is amended to read:

56364. Special classes and centers that enroll pupils with similar and more intensive educational needs shall be available. The classes and centers shall enroll the pupils when the nature or severity of the disability precludes their participation in the regular school program for a majority of a schoolday. Special classes and centers and other removal of individuals with exceptional needs from the regular education environment shall occur only when education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily due to the nature or severity of the exceptional need.

In providing or arranging for the provision of activities, each public agency shall ensure that each individual with exceptional needs participates in those activities with nondisabled pupils to the

maximum extent appropriate to the needs of the individual with exceptional needs, including nonacademic and extracurricular services and activities. Special classes and centers shall meet standards adopted by the board.

SEC. 16. Section 56365 of the Education Code is amended to read:

56365. (a) Nonpublic, nonsectarian school services, including services by nonpublic, nonsectarian agencies shall be available. The services shall be provided pursuant to Section 56366 under contract with the district, special education local plan area, or county office to provide the appropriate special educational facilities, special education, or designated instruction and services required by the individual with exceptional needs when no appropriate public education program is available.

(b) Pupils enrolled in nonpublic, nonsectarian schools and agencies under this section shall be deemed to be enrolled in public schools for all purposes of Chapter 4 (commencing with Section 41600) of Part 24 and Section 42238. The district, special education local plan area, or county office shall be eligible to receive allowances under Chapter 7 (commencing with Section 56700) for services that are provided to individuals with exceptional needs pursuant to the contract.

(c) If the state participates in the federal program of assistance for state operated or state supported programs for children with disabilities (P.L. 89-313, Sec. 6), pupils enrolled in nonpublic, nonsectarian schools shall be deemed to be enrolled in state supported institutions for all purposes of that program and shall be eligible to receive allowances under Chapter 7 (commencing with Section 56700) for supplemental services provided to individuals with exceptional needs pursuant to a contract with a district, special education local plan area, or county office of education. In order to participate in the federal program, the state must find that participation will not result in any additional expenditures from the General Fund.

(d) The district, special education local plan area, or county office shall pay to the nonpublic, nonsectarian school or agency the full amount of the tuition for individuals with exceptional needs that are enrolled in programs provided by the nonpublic, nonsectarian school pursuant to the contract.

(e) Before contracting with a nonpublic, nonsectarian school outside of the State of California, every effort shall be made by the district, special education local plan area, or county office to utilize public schools, or to locate an appropriate nonpublic, nonsectarian school or agency program, or both, within the state. If an appropriate nonpublic, nonsectarian school or agency placement is not available, the district, special education local plan area, or county office shall submit a waiver request pursuant to Section 56366.1. The waiver shall include information about the special education and related services provided by the out-of-state program placement and the costs of that special education and related services as specified in subdivisions (a)

and (b) of Section 56741 and shall indicate the efforts of the local educational agency to locate an appropriate public school or nonpublic, nonsectarian school or agency, or a combination thereof, within the state.

SEC. 16.1. Section 56365 of the Education Code is amended to read:

56365. (a) Nonpublic, nonsectarian school services, including services by nonpublic, nonsectarian agencies shall be available. These services shall be provided pursuant to Section 56366 under contract with the district, special education local plan area, or county office to provide the appropriate special educational facilities, special education, or designated instruction and services required by the individual with exceptional needs when no appropriate public education program is available.

(b) Pupils enrolled in nonpublic, nonsectarian schools and agencies under this section shall be deemed to be enrolled in public schools for all purposes of Chapter 4 (commencing with Section 41600) of Part 24 and Section 42238. The district, special education local plan area, or county office shall be eligible to receive allowances under Chapter 7 (commencing with Section 56700) for services that are provided to individuals with exceptional needs pursuant to the contract.

(c) If the state participates in the federal program of assistance for state operated or state supported programs for children with disabilities (P.L. 89-313, Sec. 6), pupils enrolled in nonpublic, nonsectarian schools shall be deemed to be enrolled in state supported institutions for all purposes of that program and shall be eligible to receive allowances under Chapter 7 (commencing with Section 56700) for supplemental services provided to individuals with exceptional needs pursuant to a contract with a district, special education local plan area, or county office of education. In order to participate in the federal program, the state must find that participation will not result in any additional expenditures from the General Fund.

(d) The district, special education local plan area, or county office shall pay to the nonpublic, nonsectarian school or agency the full amount of the tuition for individuals with exceptional needs that are enrolled in programs provided by the nonpublic, nonsectarian school pursuant to the contract.

(e) Before contracting with a nonpublic, nonsectarian school or agency outside of this state, efforts shall be documented by the district, special education local plan area, or county office to utilize public schools, or to locate an appropriate nonpublic, nonsectarian school or agency program, or both, within the state. If an appropriate public school program or nonpublic, nonsectarian school or agency placement is not available, the district, special education local plan area, or county office shall submit a waiver request pursuant to Section 56101. The waiver request shall include information about the special education and related services provided by the

out-of-state program placement and the costs of the special education and related services provided as specified in subdivisions (a) and (b) of Section 56741 and shall indicate the efforts of the local educational agency to locate an appropriate public school or nonpublic, nonsectarian school or agency, or a combination thereof, within the state. The board shall approve or deny the waiver upon receipt of the waiver request from the local education agency at the next scheduled meeting of the board.

(f) All waivers shall be resubmitted to the board no later than March 30 each year for reapproval of the pupil's out-of-state placement for the following fiscal year. In addition to the information required as part of the initial waiver request, the district, special education local plan area, or county office shall indicate the anticipated date for the return of the pupil to a public or nonpublic, nonsectarian school or agency placement, or a combination thereof, located in the state and shall document efforts during the previous placement year to return the pupil.

(g) In addition to meeting the requirements of Section 56366.1, a nonpublic, nonsectarian school or agency that operates a program outside of this state shall be certified or licensed by that state to provide, respectively, special education and related services to pupils under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

SEC. 16.3. Section 56366 of the Education Code is amended to read:

56366. It is the intent of the Legislature that the role of the nonpublic, nonsectarian school or nonpublic, nonsectarian agency shall be maintained and continued as an alternative special education service available to districts, special education local plan areas, and county offices, and parents.

(a) The contract for nonpublic, nonsectarian school or agency services shall be developed in accordance with the following provisions:

(1) The contract shall specify the general administrative and financial agreements between the nonpublic, nonsectarian school or agency and the district, special education local plan area, or county office to provide the special education and designated instruction and services, as well as transportation specified in the pupil's individualized education program. The administrative provisions of the contract also shall include procedures for recordkeeping and documentation, and the maintenance of school records by the contracting district, special education local plan area, or county office to ensure that appropriate high school graduation credit is received by the pupil. The contract may allow for partial or full-time attendance at the nonpublic, nonsectarian school.

(2) The contract shall include an individual services agreement for each pupil placed by a district, special education local plan area, or county office that will be negotiated for the length of time for which nonpublic, nonsectarian school or agency special education

and designated instruction and services are specified in the pupil's individualized education program.

Changes in educational instruction, services, or placement provided under contract may only be made on the basis of revisions to the pupil's individualized education program.

At any time during the term of the contract or individual services agreement, the parent; nonpublic, nonsectarian school or agency; or district, special education local plan area, or county office may request a review of the pupil's individualized education program by the individualized education program team. Changes in the administrative or financial agreements of the contract that do not alter the individual services agreement that outlines each pupil's educational instruction, services, or placement may be made at any time during the term of the contract as mutually agreed by the nonpublic, nonsectarian school or agency and the district, special education local plan area, or county office.

(3) The contract or individual services agreement may be terminated for cause. The cause shall not be the availability of a public class initiated during the period of the contract unless the parent agrees to the transfer of the pupil to a public school program. To terminate the contract either party shall give 20 days' notice.

(4) The nonpublic, nonsectarian school or agency shall provide all services specified in the individualized education program, unless the nonpublic, nonsectarian school or agency and the district, special education local plan area, or county office agree otherwise in the contract.

(5) Related services provided pursuant to a nonpublic, nonsectarian agency contract shall only be provided during the period of the child's regular or extended school year program, or both, unless otherwise specified by the pupil's individualized education program.

(b) The contract or individual services agreement shall not include special education transportation provided through the use of equipment owned or leased by a district, special education local plan area, or county office for pupils enrolled in nonpublic, nonsectarian schools or agencies.

(c) (1) If the pupil is enrolled in the nonpublic, nonsectarian school or agency with the approval of the district, special education local plan area, or county office prior to agreement to a contract or individual services agreement, the district, special education local plan area, or county office shall issue a warrant, upon submission of an attendance report and claim, for an amount equal to the number of creditable days of attendance at the per diem rate agreed upon prior to the enrollment of the pupil. This provision shall be allowed for 90 days during which time the contract shall be consummated.

(2) If after 60 days the contract or individual services agreement has not been finalized as prescribed in paragraph (1) of subdivision (a), either party may appeal to the county superintendent of schools, if the county superintendent is not participating in the local plan

involved in the nonpublic, nonsectarian school or agency contract, or the superintendent, if the county superintendent is participating in the local plan involved in the contract, to negotiate the contract. Within 30 days of receipt of this appeal, the county superintendent or the superintendent, or his or her designee, shall mediate the formulation of a contract which shall be binding upon both parties.

(d) No contract for special education and related services provided by nonpublic, nonsectarian schools or nonpublic, nonsectarian agencies shall be authorized under this part unless the school or agency has been certified as meeting those standards relating to the required special education and specified related services and facilities for individuals with exceptional needs. The certification shall result in the school's or agency's receiving approval to educate pupils under this part for a period no longer than five years from the date of the approval. The procedures, methods, and areas of certification shall be established by rules and regulations issued by the board that shall include, but not be limited to, procedures for conducting onsite reviews of the nonpublic, nonsectarian school or agency program. It also shall include provisions specific to the provision of special education and related services to individuals with exceptional needs from birth to preschool. The school or agency shall be charged a reasonable sum for this certification. In addition to those standards adopted by the board, the school or agency shall meet all applicable standards relating to fire, health, sanitation, and building safety.

(e) Notwithstanding any other provision of law, only those nonpublic, nonsectarian schools and agencies that provide special education and designated instruction and services utilizing staff who possess, or are receiving training under the supervision of staff who possess, a current valid California credential or license in the service rendered shall be eligible to receive certification. Nothing in this subdivision restricts student teachers, interns, or other staff who are enrolled in training programs that lead to a license or credential that authorize the holder to render services to special education pupils.

SEC. 16.35. Section 56366 of the Education Code is amended to read:

56366. It is the intent of the Legislature that the role of the nonpublic, nonsectarian school or agency shall be maintained and continued as an alternative special education service available to districts, special education local plan areas, county offices, and parents.

(a) The contract for nonpublic, nonsectarian school or agency services shall be developed in accordance with the following provisions:

(1) The contract shall specify the general administrative and financial agreements between the nonpublic, nonsectarian school or agency and the district, special education local plan area, or county office to provide the special education and designated instruction and services, as well as transportation specified in the pupil's

individualized education program on forms provided by the superintendent in January of each year for the following fiscal year. The administrative provisions of the contract also shall include procedures for recordkeeping and documentation, and the maintenance of school records by the contracting district, special education local plan area, or county office to ensure that appropriate high school graduation credit is received by the pupil. The contract may allow for partial or full-time attendance at the nonpublic, nonsectarian school.

(2) The contract shall include an individual services agreement on forms provided by the superintendent in January of each year for the following fiscal year for each pupil placed by a district, special education local plan area, or county office that will be negotiated for the length of time for which nonpublic, nonsectarian school or agency special education and designated instruction and services are specified in the pupil's individualized education program.

Changes in educational instruction, services, or placement provided under contract may only be made on the basis of revisions to the pupil's individualized education program.

At any time during the term of the contract or individual services agreement, the parent; nonpublic, nonsectarian school or agency; or district, special education local plan area, or county office may request a review of the pupil's individualized education program by the individualized education program team. Changes in the administrative or financial agreements of the contract that do not alter the individual services agreement that outlines each pupil's educational instruction, services, or placement may be made at any time during the term of the contract as mutually agreed by the nonpublic, nonsectarian school or agency and the district, special education local plan area, or county office.

(3) The contract or individual services agreement may be terminated for cause. The cause shall not be the availability of a public class initiated during the period of the contract unless the parent agrees to the transfer of the pupil to a public school program. To terminate the contract either party shall give 20 days' notice.

(4) The nonpublic, nonsectarian school or agency shall provide all services specified in the individualized education program, unless the nonpublic, nonsectarian school or agency and the district, special education local plan area, or county office agree otherwise in the contract.

(5) Related services provided pursuant to a nonpublic, nonsectarian agency contract shall only be provided during the period of the child's regular or extended school year program, or both, unless otherwise specified by the pupil's individualized education program.

(6) The nonpublic, nonsectarian school or agency shall report attendance of pupils receiving special education and designated instruction and services as defined by Section 46307 for purposes of submitting a warrant for tuition to each contracting district, special

education local plan area, or county office on forms developed by the superintendent.

(b) The contract or individual services agreement shall not include special education transportation provided through the use of services or equipment owned, leased, or contracted by a district, special education local plan area, or county office for pupils enrolled in the nonpublic, nonsectarian school or agency unless provided directly or subcontracted by that nonpublic, nonsectarian school or agency.

The superintendent shall withhold 20 percent of the amount apportioned to a school district or county office for costs related to the provision of nonpublic, nonsectarian school or agency placements if the superintendent finds that the local education agency is in noncompliance with this subdivision. This amount shall be withheld from the apportionments in the fiscal year following the superintendent's finding of noncompliance. The superintendent shall take other appropriate actions to prevent noncompliant practices from occurring and report to the Legislature on those actions.

(c) (1) If the pupil is enrolled in the nonpublic, nonsectarian school or agency with the approval of the district, special education local plan area, or county office prior to agreement to a contract or individual services agreement, the district, special education local plan area, or county office shall issue a warrant, upon submission of an attendance report and claim, for an amount equal to the number of creditable days of attendance at the per diem rate agreed upon prior to the enrollment of the pupil. This provision shall be allowed for 90 days during which time the contract shall be consummated.

(2) If after 60 days the contract or individual services agreement has not been finalized as prescribed in paragraph (1) of subdivision (a), either party may appeal to the county superintendent of schools, if the county superintendent is not participating in the local plan involved in the nonpublic, nonsectarian school or agency contract, or the superintendent, if the county superintendent is participating in the local plan involved in the contract, to negotiate the contract. Within 30 days of receipt of this appeal, the county superintendent or the superintendent, or his or her designee, shall mediate the formulation of a contract which shall be binding upon both parties.

(d) (1) No contract for special education and related services provided by a nonpublic, nonsectarian school or agency shall be authorized under this part unless the school or agency has been certified as meeting those standards relating to the required special education and specified related services and facilities for individuals with exceptional needs. The certification shall result in the school's or agency's receiving approval to educate pupils under this part. The procedures, methods, and areas of certification shall be established by rules and regulations issued by the board that shall include, but not be limited to, procedures for conducting onsite reviews of the nonpublic, nonsectarian school or agency program and include

provisions specific to the provision of special education and related services to individuals with exceptional needs from birth to preschool. In addition to those standards adopted by the board, the school or agency shall meet all applicable standards relating to fire, health, sanitation, and building safety.

(e) The school or agency shall be charged a reasonable fee for certification. The superintendent may adjust the fee annually commensurate with the statewide average percentage inflation adjustment computed for revenue limits of unified school districts with greater than 1,500 units of average daily attendance if the percentage increase is reflected in the district revenue limit for inflation purposes. For purposes of this section, the base fee shall be the following:

(A) 1–5 pupils — $150.

(B) 6–10 pupils — $250.

(C) 11–24 pupils — $500.

(D) 25–75 pupils — $750.

(E) 76 pupils and over — $1,000.

The school or agency shall pay this fee when it applies for certification and when it updates its application for annual review by the superintendent. The superintendent shall use these fees to conduct onsite reviews, which may include field experts. No fee shall be refunded if the application is withdrawn or is denied by the superintendent.

(f) (1) Notwithstanding any other provision of law, only those nonpublic, nonsectarian schools and agencies that provide special education and designated instruction and services utilizing staff who hold, or are receiving training under the supervision of staff who hold, a current valid California credential or license in the service rendered shall be eligible to receive certification. Only those nonpublic, nonsectarian schools or agencies located outside of California that employ staff who hold a current valid credential or license to render special education and related services as required by that state shall be eligible to be certified.

(2) Nothing in this subdivision restricts student teachers, interns, or other staff who are enrolled in training programs that lead to a license or credential that authorize the holder to render services to special education pupils and who are under the direct supervision of a staff member who holds a current valid California credential, license, or certificate of registration document.

(3) A nonpublic, nonsectarian school or agency that employs only persons who hold a valid California credential authorizing substitute teaching pursuant to Section 56060 shall not be certified. At least one full-time person with a current valid California credential, license, or certificate of registration in the area of service to be rendered, or a current valid credential, license, or certificate or registration for appropriate special education and related services rendered that is required in another state, shall be required for purposes of certification under subdivision (d).

(4) A nonpublic, nonsectarian school or agency that employs persons holding a valid emergency credential shall document efforts of recruiting appropriately credentialed, licensed, or registered personnel for the special education and related services rendered as a condition of renewing certification.

SEC. 16.5. Section 56366.1 of the Education Code is amended to read:

56366.1. A district, special education local plan area, county office, nonpublic, nonsectarian school, nonpublic, nonsectarian agency, or licensed children's institution may petition the superintendent to waive one or more of the requirements under Sections 56365 and 56366. The petition shall state the reasons for the waiver request, and shall include the following:

(a) Sufficient documentation to demonstrate that the waiver is necessary or beneficial to the content and implementation of a specific pupil's individualized education program and the pupil's current placement.

(b) The period of time that the waiver will be effective during any one school year.

(c) Documentation and assurance that the waiver does not abrogate any right provided individuals with exceptional needs and their parents or guardians under state or federal law, and does not hinder the compliance of a district, special education local plan area, or county office with the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), and federal regulations relating thereto.

SEC. 16.55. Section 56366.1 of the Education Code is amended and renumbered to read:

56366.2. (a) A district, special education local plan area, county office, nonpublic, nonsectarian school, or nonpublic, nonsectarian agency may petition the superintendent to waive one or more of the requirements under Sections 56365, 56366, 56366.1, 56366.3, 56366.6, and 56366.7. The petition shall state the reasons for the waiver request, and shall include the following:

(1) Sufficient documentation to demonstrate that the waiver is necessary to the content and implementation of a specific pupil's individualized education program and the pupil's current placement.

(2) The period of time that the waiver will be effective during any one school year.

(3) Documentation and assurance that the waiver does not abrogate any right provided individuals with exceptional needs and their parents or guardians under state or federal law, and does not hinder the compliance of a district, special education local plan area, or county office with the Individual with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), and federal regulations relating thereto.

(b) No waiver shall be granted for reimbursement of those costs prohibited under Section 56740 or 56775 or certification pursuant to

Section 56366.1 unless approved by the board pursuant to Section 56101.

(c) In submitting the annual report on waivers granted under Section 56101 and this section to the State Board of Education, the superintendent shall specify information related to the provision of special education and related services to individuals with exceptional needs through contracts with nonpublic, nonsectarian schools and agencies located in the state, nonpublic, nonsectarian school and agency placements in facilities located out of state, and the specific section waived pursuant to this section.

SEC. 17. Section 56367 of the Education Code is amended to read:

56367. (a) Placements in state special schools pursuant to Sections 59020, 59120, and 59220 shall be made only as a result of recommendations from the individualized education program team, upon a finding that no appropriate placement is available in the local plan area.

(b) Notwithstanding the provisions of subdivision (a), referrals for further assessment and recommendations to the California Schools for the Deaf and Blind or the Diagnostic Centers, pursuant to Section 56326, shall not constitute placements in state special schools.

SEC. 17.1. Section 56382 is added to the Education Code, to read:

56382. All review and reassessment procedures for individuals with exceptional needs who are younger than three years of age shall be provided pursuant to Chapter 4.4 (commencing with Section 56425) and the California Early Intervention Services Act, Title 14 (commencing with Section 95000) of the Government Code.

SEC. 17.2. Section 56426 of the Education Code is amended to read:

56426. An early education program shall include services specially designed to meet the unique needs of infants, from birth to three years of age, and their families. The primary purpose of an early education program is to enhance development of the infant. To meet this purpose, the program shall focus upon the infant and his or her family, and shall include home visits, group services, and family involvement activities. Early education programs funded pursuant to Sections 56427, 56428, and 56728.8 shall include, as program options, home-based services pursuant to Section 56426.1, and home-based and group services pursuant to Section 56426.2 and shall be provided in accordance with the Individuals with Disabilities Education Act (20 U.S.C. 1471 to 1485), and the California Early Intervention Services Act, Title 14 (commencing with Section 95000) of the Government Code.

SEC. 17.3. Section 56426.1 of the Education Code is amended to read:

56426.1. (a) Home-based early education services funded pursuant to Sections 56427, 56428, and 56728.8 shall include, but not be limited to, all of the following:

(1) Observing the infant's behavior and development in his or her

natural environment.

(2) Presenting activities that are developmentally appropriate for the infant and are specially designed, based on the infant's exceptional needs, to enhance the infant's development. Those activities shall be developed to conform with the infant's individualized family service plan and to ensure that they do not conflict with his or her medical needs.

(3) Modeling and demonstrating developmentally appropriate activities for the infant to the parents, siblings, and other caregivers, as designated by the parent.

(4) Interacting with the family members and other caregivers, as designated by the parent, to enhance and reinforce their development of skills necessary to promote the infant's development.

(5) Discussing parental concerns related to the infant and the family, and supporting parents in coping with their infant's needs.

(6) Assisting parents to solve problems, to seek other services in their community, and to coordinate the services provided by various agencies.

(b) The frequency of home-based services shall be once or twice a week, depending on the needs of the infant and the family.

SEC. 17.4. Section 56426.2 of the Education Code is amended to read:

56426.2. (a) Early education services funded pursuant to Sections 56427, 56428, and 56728.8 shall be provided through both home visits and group settings with other infants, with or without the parent. Home-based and group services shall include, but not be limited to, all of the following:

(1) All services identified in subdivision (a) of Section 56426.1.

(2) Group and individual activities that are developmentally appropriate and specially designed, based on the infant's exceptional needs, to enhance the infant's development. Those activities shall be developed to conform with the infant's individualized family service plan and to ensure that they do not conflict with his or her medical needs.

(3) Opportunities for infants to socialize and participate in play and exploration activities.

(4) Transdisciplinary services by therapists, psychologists, and other specialists as appropriate.

(5) Access to various developmentally appropriate equipment and specialized materials.

(6) Opportunities for family involvement activities, including parent education and parent support groups.

(b) Services provided in a center under this chapter shall not include child care or respite care.

(c) The frequency of group services shall not exceed three hours a day for up to, and including, three days a week, and shall be determined on the basis of the needs of the infant and the family.

(d) The frequency of home visits provided in conjunction with

group services shall range from one to eight visits per month, depending on the needs of the infant and the family.

(e) Group services shall be provided on a ratio of no more than four infants to one adult.

(f) Parent participation in group services shall be encouraged.

SEC. 17.5. Section 56426.25 of the Education Code is amended to read:

56426.25. The maximum service levels set forth in Sections 56426.1 and 56426.2 apply only for purposes of the allocation of funds for early education programs pursuant to Sections 56427, 56428, and 56728.8, and may be exceeded by a district, special education local plan area, or county office, in accordance with the infants' individualized family service plan, provided that no change in the level of entitlement to state funding under this part thereby results.

SEC. 17.6. Section 56426.5 of the Education Code is amended to read:

56426.5. If the transdisciplinary team determines home-based and group early education services to be appropriate, but the parent chooses not to receive home-based services, group services shall be made available to the infant. Similarly, the choice not to participate in family involvement activities shall not limit the availability to the infant and his or her family of home-based services or home-based and group services as determined appropriate by the individualized education program team.

SEC. 17.7. Section 56426.6 of the Education Code is amended to read:

56426.6. (a) Early education services shall be provided by the district, special education local plan area, or county office through a transdisciplinary team consisting of a group of professionals from various disciplines and parents who shall share their expertise and otherwise work together to provide these services for infants and their families. Each team member shall be responsible for providing and coordinating early education services for one or more infants and their families, and shall serve as a consultant to other team members and as a provider of appropriate related services to other infants in the program.

(b) Credentialed personnel with expertise in vision or hearing impairments shall be made available by the district, special education local plan area, or county office to early education programs serving infants identified in accordance with subdivision (a), (b), or (d) of Section 3030 of Title 5 of the California Code of Regulations, and shall be the primary providers of services under those programs whenever possible.

(c) Transdisciplinary teams may include, but need not be limited to, qualified persons from the following disciplines:

(1) Early childhood special education.

(2) Speech and language therapy.

(3) Nursing, with a skill level not less than that of a registered nurse.

(4) Social work, psychology, or mental health.

(d) School districts, special education local plan areas, and county offices may include, as part of the transdisciplinary team, occupational therapist and physical therapist consultants who provide professional consultation to early education program personnel. Those consultation services may include, but are not limited to, the following:

(1) Positioning, feeding, and the neurological system and its impact on learning.

(2) Adaptive equipment.

(3) Possible limitations in movement, strength, and endurance.

(4) Appropriate handling techniques.

This subdivision shall not be construed to permit occupational therapist and physical therapist consultants to provide direct therapy services to infants, except in accordance with the provisions of Chapter 26 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code and regulations implementing that chapter.

(e) Any person who is authorized by the district, special education local plan area, or county office to provide early education or related services to infants shall have appropriate experience in normal and atypical infant development and an understanding of the unique needs of families of infants with exceptional needs, or, absent that experience and understanding, shall undergo a comprehensive training plan for that purpose, which plan shall be developed and implemented as part of the staff development component of the local plan for early education services.

SEC. 17.8. Section 56426.6 of the Education Code is amended to read:

56426.6. (a) Early education services shall be provided by the district, special education local plan area, or county office through a transdisciplinary team consisting of a group of professionals from various disciplines, agencies, and parents who shall share their expertise and services to provide appropriate services for infants and their families. Each team member shall be responsible for providing and coordinating early education services for one or more infants and their families, and shall serve as a consultant to other team members and as a provider of appropriate related services to other infants in the program.

(b) Credentialed personnel with expertise in vision or hearing impairments shall be made available by the district, special education local plan area, or county office to early education programs serving infants identified in accordance with subdivision (a), (b), or (d) of Section 3030 of Title 5 of the California Code of Regulations, and shall be the primary providers of services under those programs whenever possible.

(c) Transdisciplinary teams may include, but need not be limited to, qualified persons from the following disciplines:

(1) Early childhood special education.

(2) Speech and language therapy.
(3) Nursing, with a skill level not less than that of a registered nurse.
(4) Social work, psychology, or mental health.
(5) Occupational therapy.
(6) Physical therapy.
(7) Audiology.
(8) Parent to parent support.

(d) Any person who is authorized by the district, special education local plan area, or county office to provide early education or related services to infants shall have appropriate experience in normal and atypical infant development and an understanding of the unique needs of families of infants with exceptional needs, or, absent that experience and understanding, shall undergo a comprehensive training plan for that purpose, which plan shall be developed and implemented as part of the staff development component of the local plan for early education services.

SEC. 17.9. Section 56426.7 of the Education Code is amended to read:

56426.7. Medically necessary occupational therapy and physical therapy shall be provided to the infant when warranted by medical diagnosis and contained in the individualized education program, as specified under Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code.

SEC. 17.91. Section 56427 of the Education Code is amended to read:

56427. (a) Not less than two million three hundred twenty-four thousand dollars ($2,324,000) of the federal discretionary funds appropriated to the State Department of Education under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) in any fiscal year shall be expended for early education programs for infants with exceptional needs and their families, until the department determines, and the Legislature concurs, that the funds are no longer needed for that purpose.

(b) Programs ineligible to receive funding pursuant to Section 56425 or 56728.8 may receive funding pursuant to subdivision (a).

SEC. 17.92. Section 56429 of the Education Code is amended to read:

56429. In order to assure the maximum utilization and coordination of local early education services, eligibility for the receipt of funds pursuant to Section 56425, 56427, 56428, or 56728.8 is conditioned upon the approval by the Superintendent of Public Instruction of a local plan for early education services, which approval shall apply for not less than one, nor more than three, years. The local plan shall identify existing public and private early education services, and shall include an interagency plan for the delivery of early education services in accordance with the California Early Intervention Services Act, Title 14 (commencing with Section 95000) of the Government Code.

SEC. 17.93. Section 56440 of the Education Code is amended to read:

56440. (a) Each special education local plan area shall submit a plan to the superintendent by September 1, 1987, for providing special education and services to individuals with exceptional needs, as defined by the State Board of Education, who are between the ages of three and five years, inclusive, who do not require intensive special education and services but who would be eligible for special education and services under Title II of the Education of the Handicapped Act Amendments of 1986, Public Law 99-457 (20 U.S.C. Secs. 1411, 1412, 1413, and 1419).

(b) The superintendent shall provide for a five-year phase-in of the individuals with exceptional needs qualifying for special education and services under Public Law 99-457, who do not require intensive special education and services, through an application process to be developed by the superintendent.

(c) All individuals with exceptional needs between the ages of three and five years, inclusive, identified in subdivision (a) shall be served by the districts and county offices within each special education local plan area by June 30, 1992, to the extent required under federal law and pursuant to the local plan and application approved by the superintendent.

(d) Individuals with exceptional needs between the ages of three and five years, inclusive, who are identified by the district, special education local plan area, or county office as requiring intensive special education and services, as defined by the State Board of Education, shall be eligible for special education and services pursuant to this part and shall not be subject to any phase-in plan.

(e) In special education local plan areas where individuals with exceptional needs between the ages of three and five, inclusive, who do not require intensive special education and services, are expected to have an increased demand on school facilities as a result of projected growth, pursuant to this chapter, the special education local plan area director shall submit a written report on the impacted local educational agencies to the State Allocation Board by December 1, 1987. The State Allocation Board shall assess the situation and explore ways of resolving the school facilities impaction situation.

(f) The superintendent shall provide technical assistance to local educational agencies in order to help identify suitable alternative instructional settings to alleviate the school facilities impact situation. Alternative instructional settings may include, but are not limited to, state preschool programs, or the child's home. Nothing in this chapter shall cause the displacement of children currently enrolled in these settings.

(g) Special education facilities operated by local educational agencies serving children under this chapter and Chapter 4.4 (commencing with Section 56425) shall meet all applicable standards relating to fire, health, sanitation, and building safety, but are not

subject to Chapter 3.4 (commencing with Section 1596.80), 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.

(h) This chapter applies to all individuals with exceptional needs between the ages of three and five years, inclusive.

SEC. 18. Section 56441 of the Education Code is amended to read:

56441. The Legislature hereby finds and declares that early education programs for individuals with exceptional needs between the ages of three and five years, inclusive, that provide special education and related services within the typical environment appropriate for young children, and include active parent involvement, may do the following:

(a) Significantly reduce the potential impact of any disabling conditions.

(b) Produce substantial gains in physical development, cognitive development, language and speech development, psychosocial development, and self-help skills development.

(c) Help prevent the development of secondary disabling conditions.

(d) Reduce family stresses.

(e) Reduce societal dependency and institutionalization.

(f) Reduce the need for special class placement in special education programs once the children reach schoolage.

(g) Save substantial costs to society and our schools.

SEC. 18.2. Section 56441.11 of the Education Code is repealed.

SEC. 18.3. Section 56441.11 is added to the Education Code, to read:

56441.11. (a) Notwithstanding any other provision of law or regulation, the special education eligibility criteria in subdivision (b) shall apply to preschool children, between the ages of three and five years.

(b) A preschool child, between the ages of three and five years, qualifies as a child who needs early childhood special education services if the child meets the following criteria:

(1) Is identified as having one of the following disabling conditions, as defined in Section 300.7 of Title 34 of the Code of Federal Regulations, and an established medical disability, as defined in subdivision (c):

(A) Autism.

(B) Deaf-blindness.

(C) Deafness.

(D) Hearing impairment.

(E) Mental retardation.

(F) Multiple disabilities.

(G) Orthopedic impairment.

(H) Other health impairment.

(I) Serious emotional disturbance.

(J) Specific learning disability.

(K) Speech or language impairment in one or more of voice, fluency, language and articulation.

(L) Traumatic brain injury.

(M) Visual impairment.

(N) Established medical disability.

(2) Needs specially designed instruction or services as defined in Sections 56441.2 and 56441.3.

(3) Has needs that cannot be met with modification of a regular environment in the home or school, or both, without ongoing monitoring or support as determined by an individualized education program team pursuant to Section 56431.

(4) Meets eligibility criteria specified in Section 3030 of Title 5 of the California Code of Regulations.

(b) A child is not eligible for special education and services if the child does not otherwise meet the eligibility criteria and his or her educational needs are due primarily to:

(A) Unfamiliarity with the English language.

(B) Temporary physical disabilities.

(C) Social maladjustment.

(D) Environmental, cultural, or economic factors.

(c) For purposes of this section, "established medical disability" is defined as a disabling medical condition or congenital syndrome that the individualized education program team determines has a high predictability of requiring special education and services.

(d) When standardized tests are considered invalid for children between the ages of three and five years, alternative means, for example, scales, instruments, observations, and interviews shall be used as specified in the assessment plan.

(e) In order to implement the eligibility criteria in subdivision (b), the superintendent shall:

(1) Provide for training in developmentally appropriate practices, alternative assessment and placement options.

(2) Provide a research-based review for developmentally appropriate application criteria for young children.

(3) Provide program monitoring for appropriate use of the eligibility criteria.

(f) If legislation is enacted mandating early intervention services to infants and toddlers with disabilities pursuant to the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), the superintendent shall reconsider the eligibility criteria for preschool children, between the ages of three and five years, and recommend appropriate changes to the Legislature.

SEC. 18.4. Section 56446 of the Education Code is amended to read:

56446. (a) The superintendent shall develop a funding formula for the distribution of federal funds under Title II of the Education of the Handicapped Act Amendments of 1986, Public Law 99-457 (20 U.S.C. Secs. 1411, 1412, 1413, and 1419) to local providers. The funding formula shall be developed in consultation with the

Legislative Analyst and the Director of Finance. The funding formula shall include a provision to address planning and development, program startup costs, including assessments and equipment, staff development, rental or leasing of facilities, and transportation. The funding formula shall also allow federal incentive funds generated under Title II of Public Law 99-457 to be carried over by the local educational agencies from year to year during the phase-in fiscal years of 1987–88 to 1990–91, inclusive. Any carry over funds shall be reported to the superintendent. The federal incentive funds for this program received for individuals with exceptional needs between the ages of three and five years, inclusive, who are not identified as having intensive needs, shall not be included for purposes of subdivision (a) of Section 56712, including additional funds received for these children under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.). These individuals shall not be included in the enrollment counts or computations prescribed by Section 56728.6.

(b) The superintendent shall report to the Joint Legislative Budget Committee and the Department of Finance annually on or before October 15 on the implementation of Title II of the Education of the Handicapped Act Amendments of 1986, Public Law 99-457 (20 U.S.C. Secs. 1411, 1412, 1413 and 1419). The report shall include, but not be limited to, the status of the phase-in plan, number of children being served, projected number of children to be served in the next school year, and anticipated federal funding for the next school year. This subdivision shall remain operative only until January 1, 1992, unless a later enacted statute, which is chaptered on or before January 1, 1992, deletes or extends that date.

(c) Public special education funding shall not be used to purchase regular preschool services or to purchase any instructional service other than special education and services permitted by this chapter.

SEC. 18.5. Section 56475 of the Education Code is amended to read:

56475. (a) The superintendent and the directors of the State Department of Health Services, the State Department of Mental Health, the State Department of Developmental Services, the State Department of Social Services, the Department of Rehabilitation, the Department of the Youth Authority, and the Employment Development Department shall develop written interagency agreements or adopt joint regulations that include fiscal responsibilities for the provision of special education and related services to individuals with exceptional needs in the State of California.

(b) The superintendent shall develop interagency agreements with other state and local public agencies, as deemed necessary by the superintendent, to carry out the provisions of state and federal law.

(c) (1) Each interagency agreement shall be submitted by the superintendent to each legislative fiscal committee, education

committee, and policy committee, responsible for legislation relating to those individuals with exceptional needs that will be affected by the agreement if it is effective.

(2) An interagency agreement shall not be effective sooner than 30 days after it has been submitted to each of the legislative committees specified in paragraph (1).

SEC. 19. Section 56502 of the Education Code is amended to read:

56502. (a) All requests for a due process hearing shall be filed with the superintendent. The party initiating a due process hearing by filing a written request with the superintendent shall provide the other party to the hearing with a copy of the request at the same time as the request is filed with the superintendent. The superintendent shall take steps to ensure that within 45 days after receipt of the written hearing request the hearing is immediately commenced and completed, including, any mediation requested at any point during the hearing process pursuant to paragraph (2) of subdivision (b) of Section 56501, and a final administrative decision is rendered, unless a continuance has been granted pursuant to Section 56505.

(b) Notwithstanding any procedure set forth in this chapter, a public education agency and a parent may, if the party initiating the hearing so chooses, meet informally to resolve any issue or issues relating to the identification, assessment, or education and placement of the child, or the provision of a free, appropriate public education to the child, to the satisfaction of both parties prior to the hearing. The informal meeting shall be conducted by the district superintendent, county superintendent, or director of the public education agency or his or her designee. Any designee appointed pursuant to this subdivision shall have the authority to resolve the issue or issues.

(c) Upon receipt by the superintendent of a written request by the parent or public education agency, the superintendent or his or her designee or designees shall immediately notify, in writing, all parties of the request for the hearing and the scheduled date for the hearing. The notice shall advise all parties of all their rights relating to procedural safeguards. The superintendent or his or her designee shall provide both parties with a list of persons and organizations within the geographical area that can provide free or reduced cost representation or other assistance in preparing for the due process hearing. This list shall include a brief description of the requirement to qualify for the services. The superintendent or his or her designee shall have complete discretion in determining which individuals or groups shall be included on the list.

SEC. 20. Section 56722 of the Education Code is amended to read:

56722. For each district or county office, the county superintendent shall compute an instructional personnel cost unit rate based on the 1979–80 costs submitted pursuant to Section 56721 for each of the following instructional personnel services:

(a) Special classes and centers with one special class teacher, using the amount computed pursuant to subdivision (a) of Section 56721.

(b) Special classes and centers for the severely disabled, as defined in Section 56030.5, with one special class teacher and one instructional aide, using the amounts computed pursuant to subdivisions (a) and (d) of Section 56721.

(c) Special classes and centers for the severely disabled, as defined in Section 56030.5, with one special class teacher and two instructional aides, using the amounts computed pursuant to subdivisions (a) and (d) of Section 56721.

(d) Resource specialist programs with one resource specialist only, using the amount computed pursuant to subdivision (b) of Section 56721.

(e) Resource specialist programs with one resource specialist and one instructional aide, using the amounts computed pursuant to subdivision (b) of Section 56721 and 85 percent of the amount computed to subdivision (d) of Section 56721.

(f) Certificated specialists providing designated instruction and services, using the amount computed pursuant to subdivision (c) of Section 56721. For the purpose of this subdivision, aides providing designated instruction and services may be funded in lieu of a certificated specialist.

(g) Special classes and centers for other than the severely disabled with one special class teacher and one instructional aide using the amount computed pursuant to subdivision (a) and 85 percent of the amount computed pursuant to subdivision (d) of Section 56721.

(h) Special classes and centers for other than the severely disabled with one special class teacher and two instructional aides using the amount computed pursuant to subdivision (a) and 85 percent of the amount computed pursuant to subdivision (d) of Section 56721.

SEC. 20.5. Section 56722 of the Education Code is amended to read:

56722. (a) For each school district or county office, the county superintendent shall compute an instructional personnel service unit rate based on the 1979–80 costs submitted pursuant to Section 56721 for each of the following instructional personnel services:

(1) Special classes and centers with one special class teacher, using the amount computed pursuant to subdivision (a) of Section 56721.

(2) Special classes and centers for the severely disabled, as defined in Section 56030.5, with one special class teacher and one instructional aide, using the amounts computed pursuant to subdivisions (a) and (d) of Section 56721.

(3) Special classes and centers for the severely disabled, as defined in Section 56030.5, with one special class teacher and two instructional aides, using the amounts computed pursuant to subdivisions (a) and (d) of Section 56721.

(4) Resource specialist programs with one resource specialist only, using the amount computed pursuant to subdivision (b) of Section 56721.

(5) Resource specialist programs with one resource specialist and one instructional aide, using the amounts computed pursuant to

subdivision (b) of Section 56721 and 85 percent of the amount computed to subdivision (d) of Section 56721.

(6) Certificated specialists providing designated instruction and services, using the amount computed pursuant to subdivision (c) of Section 56721. For the purpose of this subdivision, aides providing designated instruction and services may be funded in lieu of a certificated specialist.

(7) Special classes and centers for other than the severely disabled with one special class teacher and one instructional aide using the amount computed pursuant to subdivision (a) of Section 56721 and 85 percent of the amount computed pursuant to subdivision (d) of Section 56721.

(8) Special classes and centers for other than the severely disabled with one special class teacher and two instructional aides using the amount computed pursuant to subdivision (a) of Section 56721 and 85 percent of the amount computed pursuant to subdivision (d) of Section 56721.

(b) Commencing with the 1994–95 fiscal year, no unit rate calculated pursuant to this section shall be less than thirty-five thousand four hundred fifty dollars ($35,450) plus the statewide average percentage inflation adjustments computed for the revenue limits of school districts for the 1993–94 and 1994–95 fiscal years pursuant to Section 42238.1, or an alternative inflation percentage specified in law for these two fiscal years. However, if the amount appropriated for the purpose of increasing the minimum unit rate is insufficient to raise all low unit rates to the dollar amount specified, then the Superintendent of Public Instruction shall determine a lower minimum unit rate that, to the extent feasible, fully uses the amount appropriated.

SEC. 21. Section 56728.7 of the Education Code is amended to read:

56728.7. (a) The Superintendent of Public Instruction may conduct a pilot program for the 1992–93, 1993–94, and 1994–95 fiscal years to enable and encourage school districts and county offices of education, either individually or through special education local plan areas, to establish programs in public schools for individuals with exceptional needs who are currently placed in nonpublic, nonsectarian schools and to develop plans for the return of these pupils to an appropriate public school program, with a view to determining whether these new programs can provide an effective mainstreaming education program in a less restrictive environment that is appropriate to each pupil's needs for services as specified in his or her written individualized education program. Services provided pursuant to this section to each pupil by a written individualized education program, including, but not limited to, psychotherapy, mental health, residential, or other services provided under provisions of Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, shall be continued unless otherwise agreed to by a review of the pupil's expanded

individualized education program team. The superintendent shall select, for this purpose, no more than 10 school districts or county offices of education that are willing to participate in the pilot project, through an application process to be developed by the superintendent during the 1991–92 fiscal year in accordance with subdivision (b). A maximum of 200 pupils shall participate in the statewide pilot program at any given time. Of the 200 pupils, not more than 50 pupils shall be from any one school district, and no more than 15 pupils from any one school district shall be funded pursuant to Article 8.5 (commencing with Section 56775).

(b) The superintendent shall ensure that the local application describes the program and fiscal resources that it shall use in implementing the pilot program, including, but not limited to, the establishment of the Local Pilot Program Advisory Committee and its implementing policies for the pilot program. The superintendent shall make every effort to ensure that the racial, ethnic, and socioeconomic composition of the Local Pilot Program Advisory Committee reflects the current racial, ethnic, and socioeconomic composition of the exceptional pupil population in the school districts in which the pilot programs are established.

In its preparation of the application for participation in the pilot program, the local education agency shall consult with the special education local plan area in which it is a member and describe the impact the pilot program would have on other programs and resources available within the special education local plan area.

In addition, the superintendent shall ensure that there is a sampling of multiple sizes of school districts and county offices of education, including special education local plan areas whose special education plan serves an average daily attendance of 30,000 or more. The sampling shall also include all of the following:

(1) Local education agencies in urban and rural settings.

(2) Local education agencies serving large populations of individuals with exceptional needs from low-income and ethnic and linguistic minority families.

(3) Local education agencies impacted by a large number of individuals with exceptional needs who are served by nonpublic, nonsectarian schools and agencies.

(4) Local education agencies impacted by a large number of individuals with exceptional needs who reside in a foster family home, licensed children's institution, hospital, or other similar medical facility and who are served by nonpublic, nonsectarian schools or agencies.

(c) Consistent with Section 56366 and other provisions of law, it is the intent of the Legislature that programs developed pursuant to this section shall ensure the participation of, and coordination with, local contracted nonpublic, nonsectarian schools through the establishment of a Local Pilot Program Advisory Committee in order to develop, monitor, and evaluate policies to ensure that pupils' placements are changed when adequate progress is made and

readiness for placement in a less restrictive environment located in a public school is achieved.

(1) The Local Pilot Program Advisory Committee shall be comprised of representatives of local public and contracted nonpublic school programs, parents, and other local public agencies providing services pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code. Representatives of each Local Pilot Program Advisory Committee shall include two representatives of local contracted nonpublic schools designated by the California Association of Private Specialized Education and Services without regard to membership, one of whom shall be a representative of a licensed children's institution when it is determined that pupils in a licensed children's institution in a nonpublic school program placement may be considered for placement in a mainstreaming educational program, a representative of the special education local plan area administrative unit, a teacher representative of a local public school participating in the pilot, a parent representative of the local community advisory committee, pursuant to the Individuals with Disabilities Act (20 U.S.C. Sec. 1400 et seq.), a representative of a parent advocate, a representative of the local mental health advisory board, and a representative of each local public agency providing services to exceptional pupils within the special education local plan area under Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code.

(2) Notwithstanding any other provision of law, the Local Pilot Program Advisory Committee shall advise on the development, monitoring, and evaluation of policies and procedures that are necessary to implement the pilot program. The advisement shall include, but not necessarily be limited to, the following subjects:

(A) Pupil behaviors.

(B) Pupil achievement and classroom performance reports.

(C) Curriculum and class size.

(D) Adequate support services.

(E) Personnel qualifications.

(3) The Local Pilot Program Advisory Committee shall also advise on development procedures and criteria for evaluating the effectiveness of the pilot program pursuant to paragraph (1) of subdivision (e) and shall annually submit a written evaluation of the pilot program to the Superintendent of Public Instruction. The Superintendent of Public Instruction shall evaluate selected pilot programs, based on the report of each advisory committee of how goals for an effective mainstream education program have been met in accordance with pupils' written individualized education program.

(d) (1) Notwithstanding any other provision of law, in the 1992–93, 1993–94, and 1994–95 fiscal years, the Superintendent of Public Instruction shall apportion to each of the school districts or county offices of education selected pursuant to subdivision (a), in

addition to any funds to which that district or county office is entitled under this chapter, an apportionment for each pupil who is placed by that district or county office in a public school program pursuant to this section, that is equal to the average amount apportioned to the special education local plan area in which that district or county office is located for pupils under Sections 56740 and 56775 in the 1991–92 fiscal year, excluding the costs of room and board as identified by Section 56741. The costs resulting to that district or county office from the placement of any pupil in a public program operated by the district or county office pursuant to this section, including any residual nonpublic school costs for pupils transitioning into the public program, shall be funded from this apportionment. No school district or county office of education shall be entitled to receive any funding under Section 56740 or 56775 in any fiscal year based on the enrollment of any pupil for which that district or county office receives funding in that fiscal year under this subdivision.

(2) The apportionment authorized under paragraph (1) may only be provided for pupils who were enrolled in a nonpublic, nonsectarian school in the 1991–92 fiscal year. Each pupil's placement shall be changed, in accordance with this part, to a public school special education program as described under this section no later than June 30, 1994.

(3) A school district or county office of education is not entitled to receive both a nonpublic school entitlement under Section 56740 or 56775, and a pilot program apportionment as authorized by paragraph (1) in any fiscal year for pupils' participation in the statewide pilot project.

(4) If a participating pupil leaves the pilot program due to age or achievement, a change of district of residence, or if it is subsequently determined by an individual education program team that a pupil's programmatic needs cannot be successfully met in the mainstream education program, another pupil may replace that pupil if the new pupil meets the conditions for participation specified in paragraph (2). If a pupil leaves the pilot program during any fiscal year for any of the above reasons, and the pupil cannot be replaced by another pupil who meets the conditions specified in paragraph (2), the school district or county office shall provide an adjusted full-time equivalent number of pupils who actually participated in the statewide pilot program for each fiscal year to the Superintendent of Public Instruction by no later than September 30 following each fiscal year of the pilot project. The adjusted full-time equivalent number of pupils shall be used to compute an appropriate reduction in the preceding fiscal year's annualized pilot program apportionment authorized under paragraph (1) before the adjustments, if any, as specified in paragraph (7) are performed.

(5) If a nonpublic school program is resumed for a pupil due to an unsuccessful transition to a mainstream education program, the district or county office may resume the reporting of nonpublic school costs under Sections 56740 and 56775 if the Superintendent of

Public Instruction has been notified as specified in paragraph (4).

(6) The apportionment authorized under this section shall include the costs of one certificated person who shall serve as a mainstream education liaison. The workload of a mainstream education liaison shall not exceed a full-time equivalent per pupil caseload of 20.

(7) The apportionment authorized under paragraph (1) shall be used solely for purposes of providing special education programs. Any excess apportionment remaining from the costs of operating pilot programs pursuant to this section shall be adjusted from the subsequent year's apportionment which the district or county office of education may be eligible to receive. The amount of excess pilot program apportionment shall be reported to the Superintendent of Public Instruction by not later than September 30 following each fiscal year of the pilot project.

(e) Notwithstanding any other provision of law, pilot project pupils shall not be included in the calculation of the number of instructional personnel services units to which a school district or county office is entitled, in the calculation of pupil service ratio as provided in Section 56760, or in the enrollment used to compute extended year entitlements pursuant to Section 56726.

(f) This section shall not be construed to authorize any increase in state apportionments for special education to which a participating school district or county office of education is entitled under this chapter.

(g) (1) The Superintendent of Public Instruction shall evaluate the pilot program or programs operated under this section pursuant to criteria developed in consultation with the participating school districts or county offices of education and a statewide representative of contracted nonpublic, nonsectarian schools. The evaluation shall include, but not necessarily be limited to, descriptive information and supporting data provided by the Local Pilot Program Advisory Committee and others as appropriate in determining whether the program operated by each participating district or county office accomplished each of the following objectives:

(A) Provided pupils who were formerly placed in nonpublic, nonsectarian schools with an appropriate and effective mainstreaming education program which is consistent with the pupils' needs as specified in their individualized education program and located in a less restrictive environment in a public school.

(B) Served those pupils in age-appropriate, less restrictive environments, including interaction or receiving instruction with their nondisabled peers.

(C) Provided programs and services located in a public school to those pupils at a public cost no greater than that incurred in the nonpublic, nonsectarian school setting, including the public program costs for instruction, designated instruction and services, direct support services, indirect support services, and the costs of services provided by local public agencies under Chapter 26.5 (commencing

with Section 7570) of Division 7 of Title 1 of the Government Code. It is the intent of the Legislature that the comparison of the costs for services provided by public and nonpublic school programs shall be based on uniform program cost accounting procedures prescribed by the Superintendent of Public Instruction pursuant to Section 56730.5.

(2) The superintendent shall report the results of the evaluation to the Legislature no later than January 1, 1996.

(h) This section shall remain in effect only until September 1, 1996, and as of that date is repealed.

SEC. 21.1. Section 56728.7 of the Education Code is amended to read:

56728.7. (a) The Superintendent of Public Instruction may conduct a pilot program for the 1992–93, 1993–94, and 1994–95 fiscal years to enable and encourage school districts and county offices of education, either individually or through special education local plan areas, to establish programs in public schools for individuals with exceptional needs who are currently placed in nonpublic, nonsectarian schools and to develop plans for the return of these pupils to an appropriate public school program, with a view of determining whether these new programs can provide an effective mainstreaming education program in a less restrictive environment that is appropriate to each pupil's needs for services as specified in his or her written individualized education program. Services provided pursuant to this section to each pupil by an individualized education program, including, but not limited to, psychotherapy, mental health, residential, or other services provided under provisions of Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, shall be continued unless otherwise agreed to by a review of the pupil's expanded individualized education program team. The superintendent shall select, for this purpose, no more than 11 school districts or county offices of education that are willing to participate in the pilot project, through an application process to be developed by the superintendent during the 1991–92 fiscal year in accordance with subdivision (c). A maximum of 220 pupils shall participate in the statewide pilot program at any given time. Of the 220 pupils, not more than 50 pupils shall be from any one school district, and no more than 15 pupils from any one school district shall be funded pursuant to Article 8.5 (commencing with Section 56775).

(b) In addition, the Superintendent of Public Instruction shall conduct a pilot program in San Mateo County and in the Contra Costa County special education local plan area for the 1994, 1995, and 1996 calendar years to encourage and enable the San Mateo County Office of Education and the Contra Costa County special education local plan area to identify pupils who currently are placed into a nonpublic school program by San Mateo County school districts or Contra Costa County school districts, respectively, but are able to be returned to an appropriate public school program, and to identify seriously emotionally disturbed pupils who currently are in a public

school program who are imminently at risk of placement in a nonpublic school program or another more restrictive setting. The purpose of each pilot program is to establish new public school programs that maintain an effective mainstreaming education program that is appropriate to each pupil's needs for the services specified in a pupil's individualized education program, and thereby avoid placing those pupils in a nonpublic school setting.

Services provided to a pupil pursuant to this section according to the pupils' individualized education program, including, but not limited to, psychotherapy, mental health, residential, or other services provided under the provisions of Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, shall be continued unless otherwise agreed to by a review of the pupil's expanded individualized education program team.

(c) The superintendent shall ensure that the local application to participate in a pilot program pursuant to subdivision (a) describes the program and fiscal resources that it will use in implementing the pilot program, including, but not limited to, the establishment of the Local Pilot Program Advisory Committee and its implementing policies for the pilot program. The superintendent shall make every effort to ensure that the racial, ethnic, and socioeconomic composition of the Local Pilot Program Advisory Committee reflects the current racial, ethnic, and socioeconomic composition of the exceptional pupil population in the school districts in which the pilot programs are established.

In its preparation of the application for participation in the pilot program, the local education agency shall consult with the special education local plan area in which it is a member and describe the impact the pilot program would have on other programs and resources available within the special education local plan area.

In addition, the superintendent shall ensure that there is a sampling of multiple sizes of school districts and county offices of education, including special education local plan areas whose special education plan serves an average daily attendance of 30,000 or more. The sampling shall also include all of the following:

(1) Local education agencies in urban and rural settings.

(2) Local education agencies serving large populations of individuals with exceptional needs from low-income and ethnic and linguistic minority families.

(3) Local education agencies impacted by a large number of individuals with exceptional needs who are served by nonpublic, nonsectarian schools and agencies.

(4) Local education agencies impacted by a large number of individuals with exceptional needs who reside in a foster family home, licensed children's institution, hospital, or other similar medical facility and who are served by nonpublic, nonsectarian schools or agencies.

(d) Consistent with Section 56366 and other provisions of law, it

is the intent of the Legislature that programs developed pursuant to this section shall ensure the participation of, and coordination with, local contracted nonpublic, nonsectarian schools through the establishment of a Local Pilot Program Advisory Committee in order to develop, monitor, and evaluate policies to ensure that pupils' placements are changed when adequate progress is made and readiness for placement in a less restrictive environment located in a public school is achieved.

(1) The Local Pilot Program Advisory Committee shall be comprised of representatives of local public and contracted nonpublic school programs, parents, and other local public agencies providing services pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code. Representatives of each Local Pilot Program Advisory Committee shall include two representatives of local contracted nonpublic schools designated by the California Association of Private Specialized Education and Services without regard to membership, one of whom shall be a representative of a licensed children's institution when it is determined that pupils in a licensed children's institution in a nonpublic school program placement may be considered for placement in a mainstreaming educational program, a representative of the special education local plan area administrative unit, a teacher representative of a local public school participating in the pilot, a parent representative of the local community advisory committee, pursuant to the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), a representative of a parent advocate, a representative of the local mental health advisory board, and a representative of each local public agency providing services to exceptional pupils within the special education local plan area under Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code.

(2) Notwithstanding any other provision of law, the Local Pilot Program Advisory Committee shall advise on the development, monitoring, and evaluation of policies and procedures that are necessary to implement the pilot program. The advisement shall include, but not necessarily be limited to, the following subjects:

(A) Pupil behaviors.

(B) Pupil achievement and classroom performance reports.

(C) Curriculum and class size.

(D) Adequate support services.

(E) Personnel qualifications.

(3) The Local Pilot Program Advisory Committee shall also advise on development procedures and criteria for evaluating the effectiveness of the pilot program pursuant to paragraph (1) of subdivision (h) and shall annually submit a written evaluation of the pilot program to the Superintendent of Public Instruction. The Superintendent of Public Instruction shall evaluate selected pilot programs, based on the report of each advisory committee of how goals for an effective mainstream education program have been met

in accordance with pupils' individualized education programs.

(e) (1) Notwithstanding any other provision of law, in the 1992–93, 1993–94, and 1994–95 fiscal years for pilot programs operated pursuant to subdivision (a) and in the 1994, 1995, and 1996 calendar years for the pilot programs operated pursuant to subdivision (b), the Superintendent of Public Instruction shall apportion to each of the school districts or county offices of education selected pursuant to subdivision (a), and to the San Mateo County Office of Education and the Contra Costa County special education local plan area in addition to any funds to which that district or county office is entitled under this chapter, an apportionment for each pupil who is returned by that district or county office from a nonpublic school program pursuant to this section. The apportionment shall be equal to the average amount apportioned to the special education local plan area in which that district or county office is located for pupils under Sections 56740 and 56775 in the 1991–92 fiscal year for pilot programs operated pursuant to subdivision (a), and the average amount apportioned to the San Mateo County special education local plan area and the Contra Costa County special education local plan area, respectively, under those sections in the 1992–93 fiscal year for the pilot programs operated pursuant to subdivision (a), excluding the costs of room and board as identified by Section 56741. The costs resulting to that district or county office from the placement of any pupil in a public program operated by the district or county office pursuant to this section, including any residual nonpublic school costs for pupils transitioning into the public program, shall be funded from this apportionment. No school district or county office of education shall be entitled to receive any funding under Section 56740 or 56775 in any fiscal year based on the enrollment of any pupil for which that district or county office receives funding in that fiscal year under this subdivision.

(2) The apportionment authorized under paragraph (1) may only be provided for pupils who were enrolled in a nonpublic, nonsectarian school in the fiscal year prior to the new year in which the pupil is returned to public school placement. Each pupil's placement shall be changed, in accordance with this part, to a public school special education program as described under this section no later than June 30, 1994, for pupils in a pilot program operated pursuant to subdivision (a) and not later than December 30, 1995, for pupils in a pilot program operated pursuant to subdivision (b).

(3) A school district or county office of education is not entitled to receive both a nonpublic school entitlement under Section 56740 or 56775, and a pilot program apportionment as authorized by paragraph (1) in any fiscal year for pupils' participation in the statewide pilot project.

(4) If a participating pupil leaves the pilot program due to age or achievement, a change of district of residence, or if it is subsequently determined by an individualized education program team that a pupil's programmatic needs cannot be successfully met in the

mainstream education program, another pupil may replace that pupil if the new pupil qualifies under paragraph (2). If a pupil leaves the pilot program during any fiscal year for any of the above reasons, and the pupil cannot be replaced by another pupil who qualifies under paragraph (2), the school district or county office shall provide an adjusted full-time equivalent number of pupils who actually participated in the statewide pilot program for each fiscal year to the Superintendent of Public Instruction by no later than September 30 following each fiscal year of the pilot project. The adjusted full-time equivalent number of pupils shall be used to compute an appropriate reduction in the preceding fiscal year's annualized pilot program apportionment authorized under paragraph (1) before the adjustments, if any, as specified in paragraph (7) are performed.

(5) If a nonpublic school program is resumed for a pupil due to an unsuccessful transition to a mainstream education program, the district or county office may resume the reporting of nonpublic school costs under Sections 56740 and 56775 if the Superintendent of Public Instruction has been notified as specified in paragraph (4).

(6) For a pilot program operated pursuant to subdivision (a), the apportionment authorized under this section shall include the costs of one certificated person who shall serve as a mainstream education liaison. The workload of a mainstream education liaison shall not exceed a full-time equivalent per pupil caseload of 20.

(7) The apportionment authorized under paragraph (1) shall be used solely for purposes of providing special education programs. Any excess apportionment remaining from the costs of operating pilot programs pursuant to this section shall be adjusted from the subsequent year's apportionment which the district or county office of education may be eligible to receive. The amount of excess pilot program apportionment shall be reported to the Superintendent of Public Instruction by not later than October 30 following each fiscal year of the pilot project.

(f) Notwithstanding any other provision of law, pilot project pupils shall not be included in the calculation of the number of instructional personnel services units to which a school district or county office is entitled, in the calculation of pupil service ratio as provided in Section 56760, or in the enrollment used to compute extended year entitlements pursuant to Section 56726.

(g) This section shall not be construed to authorize any increase in state apportionments for special education to which a participating school district or county office of education is entitled under this chapter.

(h) (1) The Superintendent of Public Instruction shall evaluate the pilot program or programs operated under subdivision (a) pursuant to criteria developed in consultation with the participating school districts or county offices of education and a statewide representative of contracted nonpublic, nonsectarian schools. The evaluation shall include, but not necessarily be limited to, descriptive information and supporting data provided by the Local Pilot

Program Advisory Committee and others as appropriate in determining whether the program operated by each participating district or county office accomplished each of the following objectives:

(A) Provided pupils who were formerly placed in nonpublic, nonsectarian schools with an appropriate and effective mainstreaming education program which is consistent with each pupil's needs as specified in his or her individualized education program and located in a less restrictive environment in a public school.

(B) Served those pupils in age-appropriate, less restrictive environments, including interaction or receiving instruction with their nonhandicapped peers.

(C) Provided programs and services located in a public school to those pupils at a cost to the public that was no greater than that incurred in the nonpublic, nonsectarian school setting, including the public program costs for instruction, designated instruction and services, direct support services, indirect support services, and the costs of services provided by local public agencies under Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code. It is the intent of the Legislature that the comparison of the costs for services provided by public and nonpublic school programs be based on uniform program cost accounting procedures prescribed by the Superintendent of Public Instruction pursuant to Section 56730.5.

(2) The Superintendent of Public Instruction shall evaluate the pilot programs operated pursuant to subdivision (b) pursuant to criteria developed in consultation with the participating school districts or county office of education and a statewide representative of contracted nonpublic, nonsectarian schools. Each evaluation shall include, but not necessarily be limited to, descriptive information and supporting data provided by the Local Pilot Program Advisory Committee and others as appropriate in determining whether the program operated by each participating district or the county office accomplished each of the following objectives:

(A) The objectives listed in paragraph (1).

(B) Provided pupils who were identified as being imminently at risk of nonpublic school placement with an appropriate and effective mainstreaming education program that is consistent with each pupil's needs, as specified in his or her individualized education program.

(C) Enabled those pupils to attend and achieve in a public school setting.

(D) Provided programs and services located in a public school to those pupils at a cost to the public that was no greater than that incurred in the identified nonpublic, nonsectarian school setting into which they were at risk of being placed, including the public program costs for instruction, designated instruction and services, direct support services, indirect support services, and the costs of

services provided by local public agencies under Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code. It is the intent of the Legislature that the comparison of the costs for services provided by public and nonpublic school programs be based on uniform program cost accounting procedures prescribed by the Superintendent of Public Instruction pursuant to Section 56730.5.

(i) The superintendent shall report the results of the evaluation to the Legislature no later than January 1, 1997.

(j) This section shall remain in effect only until January 1, 1998, and as of that date is repealed.

SEC. 21.5. Section 56728.9 of the Education Code is amended to read:

56728.9. (a) Notwithstanding any other provision of this article, any special education local plan area that is a single district and that is severely impacted by pupils who reside in licensed children's institutions, as defined in Section 56155.5, shall be entitled to a support services amount calculated pursuant to Section 56734, except that the quotient computed pursuant to Section 56733 shall be multiplied by 150 percent for classes in which a majority of the pupils enrolled reside in licensed children's institutions, if the special education local plan area meets all of the requirements of this section.

(b) A special education local plan area is severely impacted, for purposes of this section, if all of the following requirements are satisfied:

(1) Pupils who reside in licensed children's institutions represent more than 15 percent of the special education enrollment of the special education local plan area.

(2) Special education enrollment of pupils who reside in licensed children's institutions has increased by more than 50 percent since 1985.

(3) The special education local plan area does not enroll more than 10 percent of its pupils who do not reside in licensed children's institutions in special education programs.

(c) Any special education local plan area that is severely impacted pursuant to subdivision (b) may make the calculation adjustments provided by subdivision (a) only for those classes in which a majority of the pupils enrolled during the 1989–90 school year resided in licensed children's institutions.

(d) The calculation provided by this section is a base year calculation, based on the enrollment in classes in the 1989–90 school year, creating a limit on funding adjustments provided by this section. Special education local plan areas shall not be required to maintain the 1989–90 level of eligible classes in order to be eligible for the calculation in future years. Special education local plan areas are encouraged to place pupils who reside in licensed children's institutions in the educational environment which best meets the pupil's needs in keeping with the least restrictive environment

requirements of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and the Master Plan for Special Education.

(e) The state shall not allocate any funds for the purposes of this section that are in excess of the amount expressly appropriated for the purposes of this section.

(f) 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. 22. Section 56731 of the Education Code is amended and renumbered to read:

56831. (a) The Legislature hereby finds and declares that adjudicated individuals with exceptional needs in juvenile court schools, pursuant to Section 56150, require instructional programs in special education for up to 246 schooldays, depending on the number of schooldays court schools operate in that county, each fiscal year in order to comply with Section 104.33 of Title 34 of the Code of Federal Regulations, which is enforced in juvenile court schools by the federal Office for Civil Rights.

(b) The superintendent shall develop a funding formula, in consultation with the Legislative Analyst and the Director of Finance, for the distribution of increased federal funds under Part B of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 and following), in an amount not to exceed three million dollars ($3,000,000), to augment instructional units for the special education programs in juvenile court schools, beginning in fiscal year 1993, to cover the required number of days of instruction. The funding formula augmentation shall be developed and operational by July 1, 1993. Any adjustment to the funding level for the purposes of this section shall be made through the Budget Act.

SEC. 23. Section 56740 of the Education Code is amended to read:

56740. (a) The superintendent shall apportion to each district and county office 70 percent of the cost of tuition in excess of the revenue limit and applicable federal funds for pupils enrolled in nonpublic, nonsectarian schools and agencies pursuant to Sections 56365 and 56366.

(b) The superintendent also may apportion to each nonpublic, nonsectarian school providing special education and designated instruction and services to individuals with exceptional needs an amount for pupils counted under the federal program of assistance for state operated or state supported programs for children with disabilities (P.L. 89-313, Sec. 6).

SEC. 23.5. Section 56740 of the Education Code is amended to read:

56740. (a) The superintendent shall apportion to each district and county office 70 percent of the cost of tuition in excess of the revenue limit and applicable federal funds for pupils enrolled in nonpublic, nonsectarian schools and agencies pursuant to Sections 56365 and 56366.

(b) The superintendent also may apportion to each nonpublic,

nonsectarian school providing special education and designated instruction and services to individuals with exceptional needs an amount for pupils counted under the federal program of assistance for state operated or state supported programs for children with disabilities (P.L. 89-313, Sec. 6).

(c) The cost of contracts with nonpublic, nonsectarian schools and agencies that a district or county office of education reports under this section shall not include any of the following costs that a district, county office, or special education local plan area may incur:

(1) Administrative or indirect costs for the local education agency.

(2) Direct support costs for the local education agency.

(3) Transportation costs provided either directly, or through a nonpublic, nonsectarian school or agency contract for use of services or equipment owned, leased, or contracted, by a district, special education local plan area, or county office for any pupils enrolled in nonpublic, nonsectarian schools or agencies, unless provided directly or subcontracted by that nonpublic, nonsectarian school or agency pursuant to subdivisions (a) and (b) of Section 56366.

(4) Costs for services routinely provided by the district or county office including the following, unless the board grants a waiver under Section 56101:

(A) School psychologist services other than those described in Sections 56324 and 56363 and included in a contract and individual services agreement under subdivision (a) of Section 56366.

(B) School nurse services other than those described in Sections 49423.5, 56324, and 56363 and included in a contract and individual services agreement under subdivision (a) of Section 56366.

(C) Language, speech, and hearing services other than those included in a contract and individual services agreement under subdivision (a) of Section 56366.

(D) Modified, specialized, or adapted physical education services other than those included in a contract and individual services agreement under subdivision (a) of Section 56366.

(5) Costs for nonspecial education programs or settings, including those provided for individuals with exceptional needs between the ages of birth and five years, inclusive, pursuant to Sections 56431 and 56441.8.

(6) Costs for nonpublic, nonsectarian school or agency placements outside of the state unless the board has granted a waiver pursuant to subdivisions (e) and (f) of Section 56365.

(7) Costs for related nonpublic, nonsectarian school pupil assessments by a school psychologist or school nurse pursuant to Sections 56320 and 56324.

(8) Costs for services that the nonpublic, nonsectarian school or agency is not certified to provide.

(9) Costs for services provided by personnel who do not meet the requirements specified in subdivision (e) of Section 56366.

(d) A nonpublic, nonsectarian school or agency shall not claim

and is not entitled to receive reimbursement for attendance unless the site where the pupil is receiving special education or designated instruction and services is certified.

SEC. 24. Section 56850 of the Education Code is amended to read:

56850. The purpose of the Legislature, in enacting this chapter, is to recognize that individuals with exceptional needs of mandated schoolage, residing in California's state hospitals for the developmentally disabled and mentally disordered, are entitled to, under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), and the Rehabilitation Act of 1973 (29 U.S.C. Sec. 701 et seq.), the same access to educational programs as is provided for individuals with exceptional needs residing in our communities.

It is the intent of the Legislature to ensure that services shall be provided in the community near the individual state hospitals to the maximum extent appropriate, and in the least restrictive environment.

It is the further intent of the Legislature to ensure equal access to the educational process and to a full continuum of educational services for all individuals, regardless of their physical residence.

It is the further intent of the Legislature that educational services designated for state hospital residents not eligible for services mandated by the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) shall not be reduced or limited in any manner as a result of the enactment of this chapter.

It is the further intent of the Legislature that any cooperative agreements to provide educational services for state hospitals shall seek to maximize federal financial participation in funding these services.

SEC. 25. Section 56851 of the Education Code is amended to read:

56851. (a) In developing the individualized educational program for an individual residing in a state hospital who is eligible for services under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), a state hospital shall include on its interdisciplinary team a representative of the district, or special education local plan area, or county office in which the state hospital is located, and the individual's state hospital teacher, depending on whether the state hospital is otherwise working with the district, special education local plan area, or county office for the provision of special education programs and related services to individuals with exceptional needs residing in state hospitals. However, if a district or special education local plan area that is required by this section to provide a representative from the district or special education local plan area does not do so, the county office shall provide a representative.

(b) The state hospital shall reimburse the district, special education local plan area, or the county office, as the case may be, for the costs, including salary, of providing the representative.

(c) Once the individual is enrolled in the community program, the educational agency providing special education shall be

responsible for reviewing and revising the individualized education program with the participation of a representative of the state hospital and the parent. The agency responsible for the individualized education program shall be responsible for all individual protections, including notification and due process.

SEC. 26. Section 56852 of the Education Code is amended to read:

56852. In developing the individualized educational program and providing all special education programs and related services to individuals with exceptional needs residing in the state hospitals, the state hospitals shall comply with the requirements of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. Sec. 701 et seq.), and special education provisions of this part and implementing regulations. Special education and related services shall be provided to each individual residing in a state hospital pursuant to the individualized education program for that individual.

SEC. 27. Section 56853 of the Education Code is amended to read:

56853. Nothing contained in this chapter shall affect the continued authority of the State Departments of Developmental Services and Mental Health over educational programs for individuals not eligible for services under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) nor shall it affect the overall responsibility of the state hospitals for the care, treatment, and safety of individuals with exceptional needs under their control. The state hospitals shall continue to render appropriate and necessary developmental services, health related services, psychiatric services, and related services assigned to the state hospitals in the local written agreements, as part of their responsibilities for the care and treatment of state hospital residents.

Health related services shall include services provided by physicians, psychiatrists, psychologists, audiologists, registered nurses, social workers, physical therapists, occupational therapists, psychiatric technicians, and developmental specialists, and shall be the responsibility of the state hospital if the individual with exceptional needs requires these services while in the community program.

SEC. 28. Section 56859 of the Education Code is amended to read:

56859. All certificated state hospital employees hired to provide educational services to individuals of mandated school age after September 29, 1980, shall possess an appropriate California credential in special education. Current certificated state hospital employees who do not possess appropriate California credentials in special education shall be given a period of not more than five years from September 29, 1980, to obtain such appropriate credentials. Certificated state hospital employees who do not possess appropriate California credentials in special education at the end of the five-year period shall be reassigned to provide educational services to individuals residing in state hospitals who are not eligible for services under the Individuals with Disabilities Education Act (20 U.S.C. Sec.

1400 et seq.).

SEC. 29. Section 56863 of the Education Code is amended to read:

56863. The state hospitals, as part of the notification to parents of pupils of their rights pursuant to the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. Sec. 701 et seq.), and this part and implementing regulations, shall notify parents of the right that their child can be considered for education programs other than on state hospital grounds.

For the purposes of this section, the term "parent of pupil" shall mean a parent, a legal guardian, a conservator, a person acting as a parent of a child, or a surrogate parent appointed pursuant to Public Law 94-142.

Information and records concerning state hospital patients in the possession of the Superintendent of Public Instruction shall be treated as confidential under Section 5328 of the Welfare and Institutions Code and the Federal Privacy Act of 1974, Public Law 93-579.

SEC. 30. Section 56876 of the Education Code is amended to read:

56876. On or before April 1, 1981, the Department of Education, the State Department of Health Services, the State Department of Mental Health, the State Department of Developmental Services, the State Department of Social Services, the Department of Rehabilitation, the Employment Development Department, the Department of the Youth Authority, and the State Council on Developmental Disabilities shall, in conformance with procedures established by the Office of Planning and Research, submit a plan to both the Senate Finance Committee and the Assembly Ways and Means Committee that shall include a timetable for implementation of this chapter, including, but not limited to the following:

(a) A list of provisions of state regulations and laws for which waivers may be granted in order that local educational agencies may maximize available federal funds to provide education and related services to individuals with exceptional needs without decreasing funds available to other state and local agencies.

(b) A list of provisions of federal law, federal regulations, or both, for which it is recommended that the state seek waiver.

(c) A list of specific related services which shall be provided by the respective departments and their political subdivisions to carry out the mandate of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and its implementing regulations.

SEC. 31. Section 56885 of the Education Code is amended to read:

56885. The Department of Finance shall, after consultation with appropriate state agencies, ascertain the amounts of funds, if any, that should be transferred between state agencies in order to achieve the purposes of the bill and shall notify the Joint Legislative Budget Committee, the Senate Education Committee, and the Assembly Education Committee of those amounts pursuant to the Budget Act.

Any savings that may occur to any program due to maximized use

of federal funds or services to individuals with exceptional needs as provided in this article shall be utilized to defer projected increased costs to meet full mandates of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

SEC. 32. Section 58804.2 of the Education Code is amended to read:

58804.2. Commencing with the 1992–93 academic year, each specialized secondary school operated pursuant to Section 58801.6 shall annually evaluate the success of its program as follows:

(a) The program shall be deemed successful if it meets all of the following:

(1) Eighty percent of the pupils participating in the program pursue either postsecondary education or additional professional training in their chosen fields of study after graduation from high school.

(2) Eighty percent of the pupils that remain in the program complete their high school education.

(b) The program shall also be evaluated based on an assessment of other factors including, but not limited to, the following:

(1) Increased pupil, parent, community, professional and business community, and school employee satisfaction with pupil learning, school organization, and school governance and management.

(2) Counseling and other support services that enhance the program and the success of the pupils.

(3) Improvement in the academic performance of pupils as measured by grade point average or other appropriate standards of achievement.

SEC. 33. Section 59143 of the Education Code is amended to read:

59143. The Superintendent of Public Instruction may authorize the California School for the Blind to establish and maintain, either independently or in cooperation with the University of California or the Trustees of the California State University, teacher training courses for teachers of the blind. The Superintendent of Public Instruction shall establish standards for the admission of persons to the courses, and for the content of the courses.

The California School for the Blind may enter into one or more agreements with the Trustees of the California State University, the University of California, or any other university or college accredited by the State Board of Education as a teacher training educational institution, to provide practice teaching required for issuance of the credentials authorizing the holder to teach visually impaired, blind, or deaf-blind individuals, or provide orientation and mobility instruction. The agreement or agreements may provide for a reasonable payment, for services rendered, to teachers of the California School for the Blind who have practice teachers under their direction.

SEC. 34. Section 88063 of the Education Code is amended to read:

88063. In any district that has adopted the provisions of this article there shall be appointed a personnel commission composed of

either three or five members. The governing board of any community college district, by a majority vote, and with the agreement of the existing personnel commission of the district, if that commission is in existence, may elect to increase the membership of the personnel commission from three to five members or to decrease the membership from five to three members. If two or more districts are under the jurisdiction of governing boards of identical personnel, only one commission shall be appointed. In those cases this article shall apply alike to all of the districts, and the expenses of the commission shall be paid out of the general funds of all of the districts in proportion to the benefits derived therefrom as determined by the governing board.

SEC. 35. Section 88066 of the Education Code is amended to read:

88066. (a) Within 30 days after adoption of the system the governing board shall publicly announce its intended appointee, and the appointee or appointees, as appropriate, nominated by its classified employees. As soon after their appointment as practicable but within 30 days, the appointed members shall announce their intended appointee for the third or fifth member, as appropriate. They may consider the recommendations of the governing board, the classified employees, or other concerned citizens. If these members do not announce their intended appointee within the 30-day period, the Chancellor of the California Community Colleges shall make the appointment.

"Adoption of the system" means, in the case of Section 88051, the day on which a successful election is certified to the governing board or, in the case of Section 88054, the day the governing board approves a motion, order, or resolution to adopt the system regardless of the date specified for operational commencement of the system.

(b) Where a system is already in existence and a vacancy will exist on December 1, by not later than September 30:

(1) The governing board shall publicly announce the name of the person it intends to appoint or reappoint, if the vacancy is its appointee.

(2) The appointee or appointees, as appropriate, of the governing board and the appointee or appointees of the classified employees shall publicly announce the name of the person they intend to appoint, if the vacancy is their appointee.

If the governing board and the classified employees of the district are unable to agree upon a nomination by September 30, the Chancellor of the California Community Colleges shall make the appointment within 30 days.

(c) Where a system is already in existence and a vacancy in a position nominated by the classified employees will occur, the classified employees shall submit the name of its nominee to the governing board at least 30 days prior to the date on which the vacancy will occur and the governing board shall appoint that nominee to be effective on the date on which the vacancy would occur.

(d) At a board meeting to be held after 30 and within 45 days of the dates specified in subdivision (a) and paragraph (1) of subdivision (b), as the case may be, the governing board in open hearing shall provide the public and employees and employee organizations the opportunity to express their views on the qualifications of those persons recommended by the governing board for appointment.

The board at the time may make its appointment or may make a substitute appointment or recommendation without further notification or public hearing.

In the case of the nominees of the classified employees, the board shall appoint the nominee, unless the classified employees voluntarily withdraw the name of the nominee and submit the name of a new nominee. In the latter case, the board shall then appoint the new nominee.

(e) In the event a vacancy exists because of a failure of the classified employees to agree on a nominee, the board may make an emergency appointment as authorized in subdivision (b) of Section 88065. If there is no personnel director, the board may nevertheless make an emergency interim appointment under this subdivision.

(f) At the next regularly scheduled personnel commission meeting to be held after 30 days from adoption of the system, as specified in subdivision (a), or at the next regularly scheduled personnel commission meeting to be held after 30 days from the day the intended appointee is announced, as specified in paragraph (2) of subdivision (b), as the case may be, the appointee or appointees of the governing board and the appointee or appointees nominated by the classified employees shall, in an open hearing, provide the public and employees and employee organizations the opportunity to express their views on the qualifications of each candidate recommended for the vacancy. Each candidate shall be invited to this meeting.

The appointee or appointees of the governing board and the appointee or appointees nominated by the classified employees may make their appointment or may make a substitute appointment or recommendation without further notification or public hearing.

(g) A commissioner whose term has expired may continue to discharge the duties of the office until a successor is appointed, but for no more than 90 calendar days. This subdivision shall become operative on January 1, 1994.

SEC. 36. Section 3 of Chapter 24 of the Statutes of 1992 is amended to read:

Sec. 3. (a) Prior to April 1 of each academic year that begins subsequent to the operative date of the action to reorganize school districts described in Section 1, each pupil in any of grades 9 to 12, inclusive, who resides within the boundaries of the Hermosa Beach City Elementary School District may elect to attend high school in either the Manhattan Beach City Unified School District or the Redondo Beach City Unified School District. The governing board of

the Manhattan Beach City Unified School District and the governing board of the Redondo Beach City Unified School District each shall establish a reasonable procedure to be employed by those pupils to make that annual election with regard to each of those districts.

(b) Each pupil who attends either the Manhattan Beach City Unified School District or the Redondo Beach City Unified School District pursuant to this section shall be deemed to be a pupil enrolled in that district for all purposes, including, but not limited to, his or her admission to particular high schools of the district and selection of classes, and the apportionment of state funding.

SEC. 36.1. Section 1 of Chapter 71 of the Statutes of 1992 is amended to read:

Section 1. (a) The sum of two million nine hundred eighty-four thousand dollars ($2,984,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction, in augmentation of the following:

(1) Schedule (d) of Item 6110-101-001 of Section 2.00 of the Budget Act of 1991, as set forth in Chapter 118 of the Statutes of 1991, for allocation in the 1991–92 fiscal year to fund apprenticeship education programs pursuant to Article 8 (commencing with Section 8150) of Chapter 1 of Part 6 of the Education Code.

(2) Schedule (e) of Item 6100-101-001 of Section 2.00 of the Budget Act of 1987, as set forth in Chapter 135 of the Statutes of 1987, for allocation in the 1987–88 fiscal year to fund apprenticeship education programs pursuant to Article 8 (commencing with Section 8150) of Chapter 1 of Part 6 of the Education Code.

(3) Item 6110-230-001 of Section 2.00 of the Budget Act of 1988, as set forth in Chapter 313 of the Statutes of 1988, for allocation in the 1988–89 fiscal year to fund apprenticeship education programs pursuant to Article 8 (commencing with Section 8150) of Chapter 1 of Part 6 of the Education Code.

(b) Funds appropriated by this section shall first be allocated pursuant to paragraph (1) of subdivision (a). Funds remaining after allocation pursuant to paragraph (1) of subdivision (a) shall be allocated according to paragraph (2) of subdivision (a) to reimburse school districts for disbursements made to apprenticeship education programs which have not been reimbursed by the Superintendent of Public Instruction. Funds remaining after allocation pursuant to paragraph (2) of subdivision (a) shall be allocated according to paragraph (3) of subdivision (a) to reimburse school districts for payments made to apprenticeship education programs which have not been reimbursed by the Superintendent of Public Instruction.

(c) Pursuant to the joint certification performed under Section 41206 of the Education Code for the 1988–89 fiscal year, the appropriation made in subdivision (a) fully satisfies the minimum funding guarantee under subdivision (b) of Section 8 of Article XVI of the California Constitution for that fiscal year, and is deemed to be an appropriation in the 1988–89 fiscal year, in accordance with paragraph (2) of subdivision (b) of Section 41206 of the Education

Code.

(d) The funds appropriated under subdivision (a) shall be deemed to be a one-time supplemental appropriation for the funding of apprenticeship education programs. The funding level for those programs for the 1992–93 fiscal year, and each subsequent fiscal year, shall be established in the annual Budget Act.

SEC. 36.3. During the 1993–94 fiscal year, the superintendent shall review the current funding formulas for special education and related services provided to individuals with exceptional needs between the ages of birth and five years of age, pursuant to Chapter 4.4 (commencing with Section 56425) and Chapter 4.45 (commencing with Section 56440) to determine if the funding is distributed on an equitable basis and in a manner that does not provide an incentive to categorize children under any one particular disability label. Upon completion of the review, the superintendent shall make recommendations for any revisions to the funding formulas to the Legislature.

SEC. 36.5. Notwithstanding any other provision of law, for the 1993–94 fiscal year the county superintendent shall reduce the total revenue limit computed pursuant to Section 42238 of the Education Code by the amount of the decreased employer contributions to the Public Employees' Retirement System resulting from the enactment of Chapter 330 of the Statutes of 1982, adjusted for any changes in those contributions resulting from subsequent changes in employer contribution rates, excluding rate changes due to the direct transfer of the state-mandated portion of the employer contributions to the Public Employees' Retirement System, through the 1993–94 fiscal year.

The reduction shall be calculated as follows:

(a) Determine the amount of employer contributions that would have been made in the 1993–94 fiscal year if the applicable Public Employees' Retirement System employer contribution rate in effect immediately prior to the enactment of Chapter 330 of the Statutes of 1982 were in effect during the 1993–94 fiscal year.

For purposes of this calculation, no school district shall have a contribution rate higher than 13.020 percent.

(b) Subtract from the amount determined in subdivision (a) the actual amount of employer contributions made to the Public Employees' Retirement System in the 1993–94 fiscal year.

(c) For the purposes of this provision, employer contributions to the Public Employees' Retirement System for any of the following positions shall be excluded from the calculation specified above:

(1) Positions supported totally by federal funds that are subject to supplanting restrictions.

(2) Positions supported by funds received pursuant to Section 42243.6 of the Education Code.

(3) Positions supported, to the extent of employer contributions not exceeding twenty-five thousand dollars ($25,000) by any single educational agency, from a revenue source determined on the basis

of equity to be properly excludable from this subdivision by the Superintendent of Public Instruction with the approval of the Director of Finance.

(d) For accounting purposes, the reduction made by this provision may be reflected as an expenditure from appropriate sources of revenue as directed by the Superintendent of Public Instruction.

It is the intent of the Legislature to make adjustments to school district revenue limits for the 1993–94 fiscal year to reflect savings that these districts will realize in the contributions to the Public Employees' Retirement System due to a reduced contribution rate for the 1993–94 fiscal year.

SEC. 36.7. Notwithstanding any other provision of law, for the 1993–94 fiscal year the county superintendent shall reduce the total revenue limit computed pursuant to Section 2558 of the Education Code by the amount of the decreased employer contributions to the Public Employees' Retirement System resulting from the enactment of Chapter 330, Statutes of 1982, adjusted for any changes in those contributions resulting from subsequent changes in employer contribution rates, excluding rate changes due to the direct transfer of the state-mandated portion of the employer contributions to the Public Employees' Retirement System, through the 1993–94 fiscal year. The reduction shall be calculated as follows:

(a) Determine the amount of employer contributions that would have been made in the 1993–94 fiscal year if the applicable Public Employees' Retirement System employer contribution rate in effect immediately prior to the enactment of Chapter 330 of the Statutes of 1982 were in effect during the 1993–94 fiscal year.

(b) Subtract from the amount determined in subdivision (a) the actual amount of employer contributions made to the Public Employees' Retirement System in the 1993–94 fiscal year.

(c) For the purposes of this provision, employer contributions to the Public Employees' Retirement System for any of the following positions shall be excluded from the calculation specified above:

(1) Positions supported totally by federal funds which are subject to supplanting restrictions.

(2) Positions supported by funds received pursuant to Section 42243.6 of the Education Code.

(3) Positions supported, to the extent of employer contributions not exceeding twenty-five thousand dollars ($25,000) by any single educational agency, from a revenue source determined on the basis of equity to be properly excludable from this subdivision by the Superintendent of Public Instruction with the approval of the Director of Finance.

(d) For accounting purposes, the reduction made by this provision may be reflected as an expenditure from appropriate sources of revenue as directed by the Superintendent of Public Instruction.

It is the intent of the Legislature to make adjustments to county

office of education revenue limits for the 1993–94 fiscal year to reflect savings that these county offices of education will realize in the contributions to the Public Employees' Retirement System due to a reduced contribution rate for the 1993–94 fiscal year.

SEC. 37. The Legislature finds and declares that the Pacific Unified School District and the Leggett Valley Unified School District face severe financial deficit and significant pupil attendance problems, both of which are exacerbated by the need to transport their pupils to school from areas that require extensive travel time in each direction.

In order for these districts to provide education to their pupils who are widely dispersed throughout the district, it is necessary that the Pacific Unified School District and the Leggett Valley Unified School District be permitted to operate schools on the basis of a four-day school week as set forth in Section 5 of this act.

SEC. 38. The Legislature finds and declares that due to the unique circumstances set forth in Sections 5 and 26 of this act regarding the Pacific Unified School District and the Leggett Valley Unified School District a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 39. Sections 9.8 and 9.9 of this bill incorporate amendments to Section 48204 of the Education Code proposed by both this bill and SB 592. Sections 9.8 and 9.9 shall become operative only if (1) both bills are enacted and this bill becomes effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 48204 of the Education Code, and (3) this bill is enacted after SB 592, in which case Section 48204 of the Education Code, as amended by Sections 9.6 and 9.7, shall remain operative only until the operative date of SB 592, at which time Sections 9.8 and 9.9 of the bill shall become operative.

SEC. 40. (a) Sections 11.91 and 11.92 of this bill incorporate amendments to Section 56001 proposed by both this bill and AB 1836. Sections 11.91 and 11.92 shall become operative only if (1) both bills are enacted and this bill becomes effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 56001 of the Education Code, and (3) this bill is enacted after AB 1836, in which case Section 56001 of the Education Code, as amended by Sections 11.8 and 11.9 of this bill shall remain operative only until the operative date of AB 1836, at which time Section 11.91 and 11.92 of this bill shall become operative.

SEC. 41. Section 20.5 of this bill incorporates amendments to Section 56722 of the Education Code proposed by both this bill and AB 1558. Section 20.5 shall only become operative if (1) both bills are enacted and this bill becomes effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 56722 of the Education Code, and (3) this bill is enacted after AB 1558, in which case Section 56722 of the Education Code, as amended by Section 20 of this bill shall remain operative only until the

operative date of AB 1558, at which time Section 20.5 of the bill shall become operative.

SEC. 42. Section 21.1 of this bill incorporates amendments to Section 56728.7 of the Education Code proposed by both this bill and AB 599. Section 21.1 shall become operative only if (1) both bills are enacted and this bill becomes effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 56728.7 of the Education Code, and (3) this bill is enacted after AB 599, in which case Section 56728.7 of the Education Code, as amended by Section 21 of this bill shall remain operative only until the operative date of AB 599, at which time Section 21.1 of the bill shall become operative.

SEC. 43. Section 1.6 of this bill incorporates amendments to Section 8263 of the Education Code proposed by both this bill and SB 700. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 8263 of the Education Code, and (3) this bill is enacted after SB 700, in which case Section 8263 of the Education Code, as amended by Section 1.5 of this bill, shall remain operative only until the operative date of SB 700, at which time Section 1.6 of the bill shall become operative.

SEC. 44. Section 10.7 of this bill incorporates amendments to Section 48980 of the Education Code proposed by both this bill and AB 1310. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 48980 of the Education Code, and (3) this bill is enacted after AB 1310, in which case Section 48980 of the Education Code, as amended by Section 10.5 of this bill, shall remain operative only until the operative date of AB 1310, at which time Section 10.7 of this bill shall become operative.

SEC. 45. Section 16.1 of this bill incorporates amendments to Section 56365 of the Education Code proposed by both this bill and AB 2355. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 56365 of the Education Code, and (3) this bill is enacted after AB 2355, in which case Section 56365 of the Education Code, as amended by Section 16 of this bill, shall remain operative only until the operative date of AB 2355, at which time Section 16.1 of this bill shall become operative.

SEC. 46. Section 16.35 of this bill incorporates amendments to Section 56366 of the Education Code proposed by both this bill and AB 2355. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 56366 of the Education Code, and (3) this bill is enacted after AB 2355, in which case Section 56366 of the Education Code, as amended by Section 16.3 of this bill, shall remain operative only until the operative date of AB 2355, at which time Section 16.35 of this bill shall become

operative.

SEC. 47. Section 16.55 of this bill incorporates amendments to Section 56366.1 of the Education Code proposed by both this bill and AB 2355. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 56366.1 of the Education Code, and (3) this bill is enacted after AB 2355, in which case Section 56366.1 of the Education Code, as amended by Section 16.5 of this bill, shall remain operative only until the operative date of AB 2355, at which time Section 16.55 of this bill shall become operative.

SEC. 48. Section 23.5 of this bill incorporates amendments to Section 56740 of the Education Code proposed by both this bill and AB 2355. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 56740 of the Education Code, and (3) this bill is enacted after AB 2355, in which case Section 56740 of the Education Code, as amended by Section 23 of this bill, shall remain operative only until the operative date of AB 2355, at which time Section 23.5 of this bill shall become operative.

SEC. 49. Subject to Section 40, Sections 11.8 and 11.9, 11.91 and 11.92, Sections 13.1, 14.3, 14.4, 14.5, 17.1, 17.2, 17.3, 17.4, 17.5, 17.6, 17.8, 17.9, and 17.92 shall become operative on October 1, 1993, only if SB 1085 is enacted.

SEC. 50. Sections 14.2 and 17.7 shall become operative only if SB 1085 is not enacted.

SEC. 51. 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. 52. 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 changes to various provisions of law relating to education necessary to fully implement the "Education Trailer Bill" to the Budget Act of 1993 (Ch. 66, Stats. 1993) in the 1993–94 fiscal year, it is necessary for this act to take effect immediately.

CHAPTER 1297

An act to amend Sections 20025.2, 20181, 20335, 20361, 20615, 20862.5, 20862.8, and 21151 of, to add Sections 20022.2, 20024.03, 20304, and 20615.5 to, to repeal Sections 20022.05, 20361.1, 20361.2, and 20361.3 of, and to repeal and add Sections 20022 and 20023 of, the Government Code, relating to public retirement.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 20022 of the Government Code is repealed.

SEC. 2. Section 20022 is added to the Government Code, to read:

20022. "Compensation" means the remuneration paid out of funds controlled by the employer in payment for the member's services performed during normal working hours or for time during which the member is excused from work because of: holidays; sick leave; industrial disability leave, during which, benefits are payable pursuant to Sections 4800 and 4850 of the Labor Code or Article 4 (commencing with Section 19869) of Chapter 2.5 of Part 2.6 of Division 5 of Title 2 of the Government Code; vacation; compensatory time off; or leave of absence. When compensation is reported to the board, the employer shall identify the pay period in which the compensation was earned regardless of when reported or paid. Compensation shall be reported in accordance with Section 20023 and shall not exceed compensation earnable, as defined in Section 20023.

SEC. 3. Section 20022.05 of the Government Code is repealed.

SEC. 4. Section 20022.2 is added to the Government Code, to read:

20022.2. "Labor policy or agreement" means any written policy, agreement, memorandum of understanding, legislative action of the elected or appointed body governing the employer, or any other document used by the employer to specify the payrate, special compensation, and benefits of represented and unrepresented employees.

SEC. 5. Section 20023 of the Government Code is repealed.

SEC. 6. Section 20023 is added to the Government Code, to read:

20023. (a) "Compensation earnable" by a member means the payrate and special compensation of the member, as defined by subdivisions (b), (c), and (g).

(b) (1) "Payrate" means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours. "Payrate" for a member who is not in a group or class means the monthly rate of pay or base pay of the member, paid in cash and pursuant to publicly available

pay schedules, for services rendered on a full-time basis during normal working hours.

(2) The computation for any leave without pay of a member shall be based on the compensation earnable by him or her at the beginning of the absence.

(3) The computation for time prior to entering state service shall be based on the compensation earnable by him or her in the position first held by him or her in state service.

(c) (1) Special compensation of a member includes any payment received for special skills, knowledge, abilities, work assignment, workdays or hours, or other work conditions.

(2) Special compensation shall be limited to that which is received by a member pursuant to a labor policy or agreement or as otherwise required by state or federal law, to similarly situated members of a group or class of employment that is in addition to payrate.

(3) Special compensation shall be for services rendered during normal working hours and, when reported to the board, the employer shall identify the pay period in which the special compensation was earned.

(4) Special compensation may include the monetary value of normal contributions paid to the board by the employer, on behalf of the member and pursuant to Section 20615, provided that the employer's labor policy or agreement specifically provides for the inclusion of the normal contribution payment in compensation earnable.

(5) The monetary value of any service or noncash advantage furnished by the employer to the member, except as expressly and specifically provided in this part, shall not be special compensation unless regulations promulgated by the board specifically determine that value to be "special compensation."

(6) The board shall promulgate regulations that delineate more specifically and exclusively what constitutes "special compensation" as used in this section. A uniform allowance, the monetary value of employer-provided uniforms, holiday pay, and premium pay for hours worked within the normally scheduled or regular working hours that are in excess of the statutory maximum workweek or work period applicable to the employee under the Fair Labor Standards Act (29 U.S.C. Secs. 201-219, inclusive) shall be included as special compensation and appropriately defined in those regulations.

(7) Special compensation does not include any of the following:

(A) Final settlement pay.

(B) Payments made for additional services rendered outside of normal working hours, whether paid in lump sum or otherwise.

(C) Any other payments the board has not affirmatively determined to be special compensation.

(d) Notwithstanding any other provision of law, payrate and special compensation schedules, ordinances, or similar documents shall be public records available for public scrutiny.

(e) As used in this part, "group or class of employment" means a

number of employees considered together because they share job similarities, work location, collective bargaining unit, or other logical work related grouping. Under no circumstances shall one employee be considered a group or class. Increases in compensation earnable granted to any employee who is not in a group or class shall be limited during the final compensation period applicable to the employees, as well as the two years immediately preceding the final compensation period, to the average increase in compensation earnable during the same period reported by the employer for all employees who are in the same membership classification, except as may otherwise be determined pursuant to regulations adopted by the board that establish reasonable standards for granting exceptions.

(f) As used in this part, "final settlement pay" means any pay or cash conversions of employee benefits that are in excess of compensation earnable, that are granted or awarded to a member in connection with or in anticipation of a separation from employment. The board shall promulgate regulations that delineate more specifically what constitutes final settlement pay.

(g) (1) Notwithstanding subdivision (a), "compensation earnable" for state members means the average monthly compensation, as determined by the board, upon the basis of the average time put in by members in the same group or class of employment and at the same rate of pay, and is composed of the payrate and special compensation of the member. The computation for any absence of a member shall be based on the compensation earnable by him or her at the beginning of the absence and that for time prior to entering state service shall be based on the compensation earnable by him or her in the position first held by him or her in that state service.

(2) Notwithstanding subdivision (b), "payrate" for state members means the average monthly remuneration paid in cash out of funds paid by the employer to similarly situated members of the same group or class of employment, in payment for the member's services or for time during which the member is excused from work because of holidays, sick leave, vacation, compensating time off, or leave of absence. "Payrate" for state members shall include:

(A) Any amount deducted from a member's salary for any of the following:

(i) Participation in a deferred compensation plan established pursuant to Chapter 4 (commencing with Section 19993) of Part 2.6 of Division 5 of Title 2.

(ii) Payment for participation in a retirement plan that meets the requirements of Section 401(k) of the Internal Revenue Code.

(iii) Payment into a money purchase pension plan and trust that meets the requirements of Section 401(a) of the Internal Revenue Code.

(iv) Participation in a flexible benefits program.

(B) Any payment in cash by the member's employer to one other than an employee for the purpose of purchasing an annuity contract

for a member under an annuity plan that meets the requirements of Section 403(b) of the Internal Revenue Code.

(C) Employer "pick up" of member contributions that meets the requirements of Section 414(h)(2) of the Internal Revenue Code.

(D) Any disability or workers' compensation payments to safety members in accordance with Section 4800 of the Labor Code.

(E) Temporary industrial disability payments pursuant to Article 4 (commencing with Section 19869) of Chapter 2.5 of Part 2.6 of Division 5.

(F) Any other payments the board may determine to be within "payrate."

(3) Notwithstanding subdivision (c), "special compensation" for state members shall mean all of the following:

(A) The monetary value, as determined by the board, of living quarters, board, lodging, fuel, laundry, and other advantages of any nature furnished a member by his or her employer in payment for the member's services.

(B) Any compensation for performing normally required duties, such as holiday pay, bonuses (for duties performed on regular work shift), educational incentive pay, maintenance and noncash payments, out-of-class pay, marksmanship pay, hazard pay, motorcycle pay, paramedic pay, emergency medical technician pay, POST certificate pay, and split shift differential.

(C) Compensation for uniforms, except as provided in Section 20022.1.

(D) Any other payments the board may determine to be within "special compensation."

(4) Neither "payrate" nor "special compensation" for state members shall include any of the following:

(A) The provision by the state employer of any medical or hospital service or care plan or insurance plan for its employees (other than the purchase of annuity contracts as described below in this subdivision), any contribution by the employer to meet the premium or charge for such a plan, or any payment into a private fund to provide health and welfare benefits for employees.

(B) Any payment by the state employer of the employee portion of taxes imposed by the Federal Insurance Contribution Act.

(C) Amounts not available for payment of salaries and that are applied by the employer for the purchase of annuity contracts including those that meet the requirements of Section 403(b) of the Internal Revenue Code.

(D) Any benefits paid pursuant to Article 5 (commencing with Section 19878) of Chapter 2.5 of Part 2.6.

(E) Employer payments that are to be credited as employee contributions for benefits provided by this system, or employer payments that are to be credited to employee accounts in deferred compensation plans; provided, that the amounts deducted from a member's wages for participation in a deferred compensation plan shall not be considered to be "employer payments."

(F) Payments for unused vacation, sick leave, or compensating time off, whether paid in lump sum or otherwise.

(G) Final settlement pay.

(H) Payments for overtime, including pay in lieu of vacation or holiday.

(I) Compensation for additional services outside regular duties, such as standby pay, callback pay, court duty, allowance for automobiles, and bonuses for duties performed after the member's regular work shift.

(J) Amounts not available for payment of salaries and which are applied by the employer for any of the following:

(i) The purchase of a retirement plan which meets the requirements of Section 401(k) of the Internal Revenue Code.

(ii) Payment into a money purchase pension plan and trust which meets the requirements of Section 401(a) of the Internal Revenue Code.

(K) Payments made by the employer to or on behalf of its employees who have elected to be covered by a flexible benefits program, where those payments reflect amounts that exceed the employee's salary.

(L) Any other payments the board may determine are not "payrate" or "special compensation."

(5) If the provisions of this subdivision, including the board's determinations pursuant to subparagraph (F) of paragraph (2) and subparagraph (D) of paragraph (3), are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 or 3560, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, those provisions shall not become effective unless approved by the Legislature in the annual Budget Act. No memorandum of understanding reached pursuant to Section 3517.5 or 3560 may exclude from the definition of either "payrate" or "special compensation" a member's base salary payments or payments for time during which the member is excused from work because of holidays, sick leave, vacation, compensating time off, or leave of absence. If any items of compensation earnable are included by memorandum of understanding as "payrate" or "special compensation" for retirement purposes for represented and higher education employees pursuant to this paragraph, the Department of Personnel Administration or the Trustees of the California State University shall obtain approval from the board for that inclusion.

(6) (A) Subparagraph (B) of paragraph (3) of this subdivision prescribes that compensation earnable includes any compensation for performing normally required duties, such as holiday pay, bonuses (for duties performed on regular work shift), educational incentive pay, maintenance and noncash payments, out-of-class pay, marksmanship pay, hazard pay, motorcycle pay, paramedic pay, emergency medical technician pay, POST certificate pay, and split

shift differential; and includes compensation for uniforms, except as provided in Section 20022.1; and subparagraph (I) of paragraph (4) excludes from compensation earnable compensation for additional services outside regular duties, such as standby pay, callback pay, court duty, allowance for automobile, and bonuses for duties performed after regular work shift.

(B) Notwithstanding subparagraph (A) of this paragraph, the Department of Personnel Administration shall determine which payments and allowances that are paid by the state employer shall be considered compensation for retirement purposes for any employee who either is excluded from the definition of state employee in subdivision (c) of Section 3513, or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service.

(C) Notwithstanding subparagraph (A) of this paragraph, the Trustees of the California State University shall determine which payments and allowances that are paid by the trustees shall be considered compensation for retirement purposes for any managerial employee, as defined in subdivision (*l*) of Section 3562, or supervisory employee as defined in Section 3580.3.

SEC. 7. Section 20024.03 is added to the Government Code, to read:

20024.03. Notwithstanding any other provision of this part, "final compensation" of a local member for the purpose of determining any pension or benefit resulting from state service as an elective or appointed officer on a city council or a county board of supervisors accrued while in membership pursuant to Section 20361, shall be based on the highest average annual compensation earnable by the member during the period of state service in each elective or appointed office. Where that elective or appointed service is a consideration in the computation of any pension or benefit, the member may have more than one final compensation.

This section shall apply to a local member first elected or appointed to a city council or a county board of supervisors on or after July 1, 1994, or elected or appointed to a term of office not consecutive with the term of office held on June 30, 1994.

SEC. 8. Section 20025.2 of the Government Code is amended to read:

20025.2. When the compensation of a member is a factor in any computation to be made under this part there shall be excluded from those computations any compensation based on overtime put in by a member whose service retirement allowance is a fixed percentage of final compensation for each year of credited service. For the purposes of this part, overtime is the aggregate service performed by an employee as a member for all employers and in all categories of employment in excess of the hours of work considered normal for employees on a full-time basis, and for which monetary compensation is paid.

If a member concurrently renders service in two or more positions,

one or more of which is full time, service in the part-time position shall constitute overtime. If two or more positions are permanent and full time, the position with the highest payrate or base pay shall be reported to the system. This provision shall apply only to service rendered on or after July 1, 1994.

SEC. 9. Section 20181 of the Government Code is amended to read:

20181. (a) The obligations of this system to its members continue throughout their respective memberships, and the obligations of this system to and in respect to retired members continue throughout the lives of the respective retired members, and thereafter until all obligations to their respective beneficiaries under optional settlements have been discharged. The obligations of the state and contracting agencies to this system in respect to members employed by them, respectively, continue throughout the memberships of the respective members, and the obligations of the state and contracting agencies to this system in respect to retired members formerly employed by them, respectively, continue until all of the obligations of this system in respect to those retired members, respectively, have been discharged. The obligations of any member to this system continue throughout his or her membership, and thereafter until all of the obligations of this system to or in respect to him or her have been discharged.

(b) For the purposes of payments into or out of the retirement fund for adjustment of errors or omissions, whether pursuant to Sections 20165, 20180, or 20527, or otherwise, the period of limitation of actions shall be three years, and shall be applied as follows:

(1) In cases where the system makes an erroneous payment to a member or beneficiary, the system's right to collect shall expire three years from the date of payment.

(2) In cases where the system owes money to a member or beneficiary, the period of limitations shall not apply.

(3) In cases where payment is erroneous because of the death of the retired member or beneficiary or because of the remarriage of the beneficiary, the period of limitation shall commence with the discovery of the erroneous payment.

(c) Notwithstanding subdivision (b), where any payment has been made as a result of fraudulent reports for compensation made, or caused to be made, by a member for his or her own benefit, the period of limitation shall be 10 years and that period shall commence either from the date of payment or upon discovery of the fraudulent reporting, whichever date is later.

(d) The board shall determine the applicability of the period of limitations in any case, and its determination with respect to the running of any period of limitation shall be conclusive and binding for purposes of correcting the error or omission.

SEC. 10. Section 20304 is added to the Government Code, to read:

20304. Any employer that fails to enroll an employee into membership when he or she becomes eligible, or within 90 days

thereof, when the employer knows or can reasonably be expected to have known of that eligibility shall be required to pay all arrears costs for member contributions and administrative costs of five hundred dollars ($500) per member as a reimbursement to the system's current year budget.

SEC. 11. Section 20335 of the Government Code is amended to read:

20335. Except as otherwise provided in this part, persons rendering professional legal services to a city, other than the person holding the office of city attorney, the office of assistant city attorney, or an established position of deputy city attorney, are excluded from membership.

SEC. 12. Section 20361 of the Government Code is amended to read:

20361. (a) An elective officer is excluded from membership in this system unless the officer files with the board an election in writing to become a member. The officer may so elect at any time, and has the option of making contributions to this system in the amount which the officer would have contributed had the officer not been so excluded, plus an amount equal to the interest, to the date or dates of his or her payment, that would have been credited to those contributions had he or she not been so excluded. The contributions and interest shall be paid to this system at times, in amounts, and in a manner, fixed by the board. If the officer affirmatively exercises the option:

(1) He or she shall receive credit for previous state service in the same manner as if he or she had not been excluded, and

(2) His or her rate of contributions shall be based on the nearest age at the time he or she first was excluded.

(b) As used in this part, "elective officer" includes any officer of the Senate or Assembly who is elected by vote of the members of either or both of the houses of the Legislature, and any appointive officer of a city or county occupying a fixed term of office, as well as officers of the state or contracting agencies elected by the people, and persons elected to a city council or a county board of supervisors.

(c) Notwithstanding any other provision of subdivision (a) or (b), elected or appointed officers of a county superintendent of schools, school district, or community college district, or of a contracting agency that is not a city or county, who serve on public commissions, boards, councils, or similar legislative or administrative bodies are excluded from membership in this system. This exclusion shall only apply to those elected or appointed officers who are first elected or appointed to an office on or after July 1, 1994, or who are elected or appointed to a term of office not consecutive with the term of office held on June 30, 1994. This exclusion shall not apply to persons elected to a city council or county board of supervisors.

(d) Any person holding the office of city attorney or the office of assistant city attorney, whether employed, appointed, or elected, is excluded from the definition of "elective officer" as defined in

subdivision (b). This subdivision shall apply only to persons first employed, elected, or appointed on or after July 1, 1994, or following any break in state service while serving in the office if the office was held on June 30, 1994.

(e) In accordance with Section 20124 the board shall be the sole judge of which elected or appointed positions qualify the incumbent as an "elective officer" in the system under this section.

SEC. 13. Section 20361.1 of the Government Code is repealed.

SEC. 14. Section 20361.2 of the Government Code is repealed.

SEC. 15. Section 20361.3 of the Government Code is repealed.

SEC. 16. Section 20615 of the Government Code is amended to read:

20615. Notwithstanding any other provision of law, a contracting agency or school employer may pay all or a portion of the normal contributions required to be paid by a member. Where the member is included in a group or class of employment, the payment shall be for all members in the group or class of employment. The payments shall be reported simply as normal contributions and shall be credited to member accounts.

Nothing in this section shall be construed to limit the authority of a contracting agency or school employer to periodically increase, reduce, or eliminate the payment by the contracting agency or school employer of all or a portion of the normal contributions required to be paid by members, as authorized by this section.

SEC. 17. Section 20615.5 is added to the Government Code, to read:

20615.5. (a) Where a contracting agency employer or a school employer has elected to pay all or a portion of the normal contributions of members of a group or class of employment pursuant to Section 20615, the employer may, pursuant to a labor policy or agreement, stop paying those contributions during the final compensation period applicable to the members and, instead, increase the payrate of the members by an amount equal to the normal contributions paid by the employer on behalf of the employees or increase the payrate of the members by an amount established by a labor policy or agreement in existence and in effect on June 30, 1993. That amount shall not exceed the amount of the normal member contributions that are required to be paid by the members.

(b) This section shall not apply to any contracting agency or to any school employer unless and until the contracting agency or the school employer elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts, except an election among the employees is not required. In the case of contracts made after the date this section is operative, the section shall not apply unless incorporated by express provision in the contract. However, no school employer may act pursuant to this section unless and until the board approves a request for the amendment of the contract of a school employer to authorize

termination of the payment. A school employer shall not submit a request for a contract amendment unless there is on file a request to terminate that payment from the county superintendent of schools office and each school district, community college district, and other school entity within the jurisdiction of that school employer.

(c) Before adopting this provision, the governing body of a contracting agency or school employer shall, with timely public notice, place the consideration of this section on the agendas of two consecutive public meetings of the governing body, at which time, full disclosure shall be made of the nature of the benefit, the additional employer contributions, and the funding therefor. Only after the second of these public meetings may the governing body adopt this section. The employer shall notify the board of the employer's compliance with this subdivision at the time of the governing body's application to adopt this section.

(d) Persons hired after the effective date of an employer's contract amendment to include this section shall be informed by the employer of how this benefit relates to their total compensation and benefit package.

(e) The additional employer contributions required under this section shall be computed as a level percentage of member compensation. The additional contribution rate required at the time this section is added to a contract shall not be less than the sum of (1) the actuarial normal cost, plus (2) in the case of a contract amendment, the additional contribution required to amortize the increase in accrued liability attributable to the benefit elected under this section over the unfunded actuarial liability period currently in the agency's contract, commencing from the date this section becomes effective in the agency's contract.

(f) For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors necessary to calculate the employer's contribution shall be determined on the basis of actuarial assumptions and methods which, in combination, provide the board's best estimate of anticipated experience under the system. The board has the exclusive power and duty to make these determinations.

(g) Within 30 days of notification from the board to the contracting agency or school employer of the additional employer contributions required pursuant to this section, the contracting agency or school employer, or a recognized employee organization, or both, may file with the board a request for a review of the determination of the calculation of the additional employer contributions. The board shall promulgate regulations governing the conduct of the review, that shall include the means by which an employer or recognized employee organization may submit independent actuarial evidence regarding the additional contribution required by this section. The board shall make the final determination on the additional employer contributions needed to fund this contract amendment.

SEC. 18. Section 20862.5 of the Government Code is amended to read:

20862.5. A state, school, or school safety member, whose effective date of retirement is within four months of separation from employment with the employer subject to this section which granted the sick leave credit, shall be credited at his or her retirement with 0.004 year of service credit for each unused day of sick leave certified to the board by the employer. The certification shall report only those days of unused sick leave that were accrued by the member during the normal course of his or her employment and shall not include any additional days of sick leave reported for the purpose of increasing the member's retirement benefit. Reports of unused days of sick leave shall be subject to audit and retirement benefits may be adjusted where improper reporting is found.

Until receipt of certification from an employer concerning unused sick leave, the board may pay an estimated allowance pursuant to this section. At the time of receipt of the certification, the allowance shall be adjusted to reflect any necessary changes.

Notwithstanding provisions of this part subjecting local miscellaneous members to provisions applicable to state miscellaneous members, this section shall not apply to local members other than local miscellaneous members employed before July 1, 1980, by a school district which is a contracting agency or those school safety members employed before July 1, 1980, by a contracting agency which is a school district or community college district, as defined in subdivision (i) of Section 20009.1.

This section shall not be applicable to any person who becomes a school member on and after July 1, 1980, and any person who becomes a local member employed, on and after July 1, 1980, by a school district which is a contracting agency whether or not such person was ever a school member or local member prior to such date.

SEC. 19. Section 20862.8 of the Government Code is amended to read:

20862.8. A local miscellaneous member and a local safety member, whose effective date of retirement is within four months of separation from employment with the employer which granted the sick leave credit, shall be credited at his retirement with 0.004 year of service credit for each unused day of sick leave certified to the board by his or her employer. The certification shall report only those days of unused sick leave that were accrued by the member during the normal course of his or her employment and shall not include any additional days of sick leave reported for the purpose of increasing the member's retirement benefit. Reports of unused days of sick leave shall be subject to audit and retirement benefits may be adjusted where improper reporting is found.

This section shall not apply to any contracting agency nor to the employees of any contracting agency unless and until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts, except that an

election among the employees is not required, or, in the case of contracts made after September 26, 1974, by express provision in the contract making the contracting agency subject to this section.

This section shall only apply to members who retire after the effective date of the contract amendment.

SEC. 20. Section 21151 of the Government Code is amended to read:

21151. A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system, as follows:

(a) As a member of any board, commission, or advisory committee, upon appointment by the Governor, the Speaker of the Assembly, the President pro Tempore of the Senate, director of a state department, or the governing board of the contracting agency. However, the appointment shall not be deemed employment within the meaning of Division 4 (commencing with Section 3200) and Division 4.5 (commencing with Section 6100) of the Labor Code, and shall not provide a basis for the payment of workers' compensation to a retired state employee or to his or her dependents.

(b) As a school crossing guard.

(c) As a juror or election officer.

(d) As an elective officer on and after September 15, 1961. However, all rights and immunities which may have accrued under Section 21158 as it read prior to that section's repeal during the 1969 Regular Session of the Legislature are hereby preserved.

(e) As an appointive member of the governing body of a contracting agency. However, the compensation for that office shall not exceed one hundred dollars ($100) per month.

(f) Upon appointment by the Legislature, or either house, or a legislative committee to a position deemed by the appointing power to be temporary in nature.

(g) Upon employment by a contracting agency to a position found by the governing body, by resolution, to be available because of a leave of absence granted to a person on payroll status for a period not to exceed one year and found by the governing body to require specialized skills. The temporary employment shall be terminated at the end of the leave of absence. Appointments under this section shall be reported to the board and shall be accompanied by the resolution adopted by the governing body.

(h) Upon appointment by the governing body of a contracting agency to a position deemed by the governing body to be of a limited duration and requiring specialized skills or during an emergency to prevent stoppage of public business. These appointments, in addition to any made pursuant to Section 21153, shall not exceed a total for all employers of 960 hours in any calendar year. When an appointment is expected to, or will, exceed 960 hours in any calendar year, the governing body shall request approval from the board to extend the temporary employment. The governing body shall present a resolution to the board requesting action to allow or

disallow the employment extension. The resolution shall be presented prior to the expiration of the 960 hour maximum for the calendar year. The appointment shall continue until notification of the board's decision is received by the governing body. The appointment shall be deemed approved if the board fails to take action within 60 days of receiving the request. Appointments under this subdivision may not exceed a total of one year.

SEC. 21. This act shall become operative on July 1, 1994.

CHAPTER 1298

An act to amend, repeal, and add Section 89001 of, to add Chapter 9 (commencing with Section 90100) to Part 55 of, and to repeal Division 6 (commencing with Section 70000) of, the Education Code, and to add Sections 3572.1 and 19997.15 to the Government Code, relating to the California Maritime Academy.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. It is the intent of the Legislature that on July 1, 1995, the California Maritime Academy become a campus of the California State University system. The inclusion of the California Maritime Academy within the California State University system shall not signify an alteration of the primary mission of the California Maritime Academy as a specialized institution.

The Legislature finds and declares that the inclusion of the California Maritime Academy within the California State University system is vital to the California Maritime Academy's long-term financial security and stability.

The Legislature intends that the general fund appropriation and federal support for the California Maritime Academy be maintained as a minimal base both during and after the transition of the California Maritime Academy into the California State University.

SEC. 1.5. In order to provide for the orderly transition of California Maritime Academy employees from the state civil service to the California State University, Sections 3.5, 4, and 5 of this act shall not become operative until July 1, 1995.

SEC. 2. Division 6 (commencing with Section 70000) of the Education Code is repealed.

SEC. 3. Section 89001 of the Education Code is amended to read:

89001. The California State University includes the institutions for higher education whose locations are listed in this section.

(a) San Jose.

(b) San Francisco.

(c) Chico.

(d) Humboldt.
(e) San Diego.
(f) Fresno.
(g) California Polytechnic State University, San Luis Obispo.
(h) California State Polytechnic University, at or near the Cities of San Dimas and Pomona.
(i) Long Beach.
(j) Los Angeles.
(k) Sacramento.
(*l*) Hayward.
(m) San Fernando Valley.
(n) Fullerton.
(o) Stanislaus.
(p) Sonoma.
(q) San Bernardino.
(r) Dominguez Hills.
(s) Contra Costa.
(t) Kern.
(u) Redwood City.
(v) Ventura.
(w) San Marcos.

This section shall become inoperative on June 30, 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. 3.5. Section 89001 is added to the Education Code, to read:

89001. (a) The California State University includes the institutions for higher education whose locations or designations are listed in this section.

(1) San Jose.
(2) San Francisco.
(3) Chico.
(4) Humboldt.
(5) San Diego.
(6) Fresno.
(7) California Polytechnic State University, San Luis Obispo.
(8) California State Polytechnic University, Pomona.
(9) Long Beach.
(10) Los Angeles.
(11) Sacramento.
(12) Hayward.
(13) San Fernando Valley.
(14) Fullerton.
(15) Stanislaus.
(16) Sonoma.
(17) San Bernardino.
(18) Dominguez Hills.
(19) Contra Costa.
(20) Kern.

(21) Redwood City.
(22) Ventura.
(23) San Marcos.
(24) The California Maritime Academy, a specialized institution.
(b) This section shall become operative on July 1, 1995.

SEC. 4. Chapter 9 (commencing with Section 90100) is added to Part 55 of the Education Code, to read:

CHAPTER 9. CALIFORNIA MARITIME ACADEMY

Article 1. General Provisions

90100. The California Maritime Academy, a specialized institution, is part of the California State University. The primary mission of the academy is to provide instruction in the maritime sciences, engineering, and related fields, including all those necessary to provide the highest quality licensed officers for the United States Merchant Marine and California maritime industries. The trustees may require students to qualify for United States Merchant Marine licenses as a condition of earning a degree.

Article 2. Administration

90120. The trustees shall administer and govern the academy. The trustees shall establish a Board of Visitors to the California Maritime Academy whose members shall be reimbursed for their reasonable expenses incurred in connection with their official duties concerning the academy. The board of visitors shall consist of no less than five representatives from maritime or maritime-related industries who shall advise the president on matters related to the mission of the academy. The trustees shall invite a representative of the Federal Maritime Administration to serve as a nonvoting participant at the meetings of the board of visitors.

90121. The president of the academy is also the commander of the academy and has, subject to the regulations of the trustees, the direct control, supervision, and management of the academy, and any other powers and duties as provided by regulations of the trustees.

90122. Notwithstanding any other provision of law, the trustees shall administer the academy to comply with any federal statute and regulations governing maritime operations and maritime academies.

90123. The trustees shall determine what provisions of law are contrary to the mission and operation of the academy and shall propose any legislation considered necessary and desirable for the mission and operation of the academy.

Article 3. Admission

90130. Notwithstanding any other provision of law, the trustees shall determine eligibility for admission and continued enrollment at the academy.

Article 4. Tuition, Fees, and Financial Aid

90140. The trustees shall establish appropriate miscellaneous fees for the academy. These fees shall be for purposes unique to the academy, such as the annual training cruise and uniforms.

90141. The Legislature hereby finds that the academy provides full-time programs that limit opportunity for student employment. For that reason, it is difficult for students attending the academy to contribute to the cost of their education through employment while attending. This limits the opportunity for students who have little or no financial ability to contribute to the payment of their cost of education.

For these reasons, the trustees shall develop and adopt a policy that provides opportunities for financial assistance for students to attend the academy and that provides for the active recruitment of students from economically disadvantaged backgrounds and underrepresented groups. In order to implement this policy, the trustees may make full use of any and all state and federal funds available and may receive private contributions, including those from the maritime industry, for this purpose.

90142. The trustees may provide for the payment of tuition and fees charged students by installments payable at intervals determined by the trustees.

Article 5. Facilities

90150. The Legislature recognizes that the academy has unique facilities, such as a large ship docking facility, training ship, several smaller vessels, and equipment, which provide potential resources to the California State University.

The trustees are encouraged to develop programs designed to increase the sharing and lending of facilities among the academy and the other campuses of the California State University and to allow the exchange of students and instructors when that action is not inconsistent with the mission of the academy and the other campuses.

Article 6. Trust Account Deposits

90160. (a) Notwithstanding any other provision of law, the chief fiscal officer of the academy shall deposit into and maintain in local trust accounts, or in other California State University trust accounts or in the California Maritime Academy Trust Fund, which is hereby

continued in existence in the State Treasury, funds received in connection with the following sources or purposes:

(1) Advance payment for anticipated expenditures or encumbrances in connection with federal grants or contracts.

(2) Miscellaneous receipts in the nature of deposits and subject to return upon approval of a proper application.

(3) Fees and charges for services, materials, and facilities required of persons who, at their option, use the services or facilities, or who are provided the materials, for which the fees or charges are made. Fees and charges so received and deposited shall be used to meet the costs of providing those services, facilities, and materials.

(4) Fees for student activities, as defined by the trustees, and revenues derived from the conduct of student activities. The trustees may administer and use the fees and revenues to support the student activities.

(b) Notwithstanding Section 13340 of the Government Code, funds deposited and maintained under this section are continuously appropriated, without regard to fiscal years, to the trustees for the support of the academy as may be determined by the trustees consistent with the terms and conditions of any agreement under which the funds were received. The funds so deposited and maintained may be invested by the chief fiscal officer of the academy, or by the State Treasurer, as appropriate, upon approval of the trustees, consistent with this section and the terms and conditions of any agreement under which the funds were received.

Article 7. Training Cruise Expenses

90170. The trustees may, out of any appropriation made for the support of the California State University, without at the time furnishing vouchers and itemized statements, withdraw a sum or sums necessary to be used by the academy to provide for the payment of expenses of any training cruise, which shall be paid to the master of the training vessel. The sum or sums so drawn for any training cruise shall, not later than 30 days following the termination of the training cruise be accounted for and substantiated by vouchers and itemized statements. Any unexpended balance of the sum or sums so withdrawn shall be returned to the appropriation from which originally withdrawn.

Article 8. Federal Funds and Resources

90180. The trustees shall take all necessary steps to acquire the maximum amount of federal funds from all available sources for the academy.

90181. The Governor may apply in writing to the federal government to furnish a suitable vessel with all apparel, charts, books, and instruments of navigation and land with all buildings and equipment thereon to be used for the benefit of the academy.

90182. The trustees may receive from the federal government or from other sources, and use for the purposes of the academy, a vessel or vessels detailed or furnished by the federal government or from other sources with all apparel, charts, books, and instruments of navigation, and land with all buildings and equipment thereon.

Article 9. Employees

90190. Employees of the academy shall retain and carry over to their status as employees of the trustees any seniority credit, permanent status, and accumulated leave as earned and available immediately prior to the employee's transfer to employment with the trustees.

Article 10. Operative Date

90191. This chapter shall become operative on July 1, 1995.

SEC. 5. Section 3572.1 is added to the Government Code, to read:

3572.1. This section shall apply only to the California Maritime Academy.

(a) The duty to engage in meeting and conferring requires the parties to begin meeting and conferring at least 60 days prior to the expiration of memoranda of understanding, or May 1, if earlier, of any year in which a memorandum shall expire, or May 1, if there is no existing memorandum of understanding. The trustees shall maintain close liaison with the Department of Finance and the Legislature relative to the meeting and conferring on provisions of the written memoranda that have fiscal ramifications.

No written memoranda reached pursuant to this chapter that require budgetary or curative action by the Legislature or other funding agencies, including the Federal Maritime Administration, shall be effective unless and until that action has been taken. Following execution of written memoranda of understanding, an appropriate request for financing or budgetary funding for all state-funded employees or for necessary legislation will be forwarded promptly to the Legislature and the Governor or other funding agencies. When memoranda require legislative action pursuant to this section, if the Legislature or the Governor fails fully to fund the memoranda or to take the requisite curative action, the entire memoranda shall be referred back to the parties for further meeting and conferring; provided, however, that the parties may agree that provisions of the memoranda that are nonbudgetary and do not require funding shall take effect whether or not the funding requests submitted to the Legislature are approved.

The Legislature recognizes that the California Maritime Academy's sources of funding are multiple, and approval by the Legislature, and by other public agencies, as to employees funded by those agencies, may be required prior to implementation of increased expenditures resulting from agreements reached in

accordance with this chapter.

(b) The Legislature finds that federal funding in support of the California Maritime Academy is essential. The trustees may suspend or modify any provision of a memorandum of understanding that jeopardizes federal funding, but shall provide notice to exclusive representatives of any such suspension or modification and shall meet and confer with the exclusive representative, if requested to do so, to explain the need for, and the effects of, the suspension or modification.

(c) Any memorandum of understanding that is in effect at the time that the employer-employee relations of the California Maritime Academy is transferred from the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1), to the Higher Education Employer-Employee Relations Act (Chapter 12 (commencing with Section 3560) of Division 4 of Title 1), shall remain in effect until the end of the term of the memorandum of understanding, upon extension of the contracts in existence on June 30, 1995, or until superseded by a new memorandum of understanding.

(d) If agreement is reached to extend existing memoranda of understanding covering California Maritime Academy employees beyond the current June 30, 1995, expiration date, then any decisions, agreements, or settlements made by the California State University in the administration of the memoranda of understanding relative to employees of the California Maritime Academy shall not be binding upon, or considered as precedent required to be followed by, the Department of Personnel Administration.

(e) This section shall become operative on July 1, 1995.

SEC. 6. Section 19997.15 is added to the Government Code, to read:

19997.15. (a) In order to provide state civil service employees of the California Maritime Academy with an opportunity to remain in the state civil service system, there shall be a transition period from January 1, 1994, to June 30, 1995, inclusive. Any civil service employee of the California Maritime Academy who does not transfer with the California Maritime Academy to the California State University system shall be eligible for all job placement provisions available pursuant to Sections 19998 and 19998.1. Any civil service employee who does not intend to transfer with the academy to the California State University system prior to July 1, 1995, must file a statement, on or before December 30, 1994, in the form as the Director of the Department of Personnel Administration shall prescribe rejecting employment in the California State University. Those employees shall be subject to state civil service layoff and reemployment in accordance with Part 2 (commencing with Section 18500), regulations adopted pursuant to those provisions, provisions of applicable memoranda of understanding, or any other provision governing layoff and reemployment within the state civil service. Any employee who does not file the statement rejecting California

State University employment shall be considered an employee of the California State University, effective July 1, 1995.

(b) In order to provide for the orderly transition of California Maritime Academy employees from the state civil service to the California State University, the following shall apply:

(1) The terms of any memorandum of understanding shall remain in effect until the memorandum of understanding expires or is amended or replaced.

(2) After January 1, 1994, employees of the California Maritime Academy, with the agreement of the exclusive representative and the Trustees of the California State University, may petition the Public Employment Relations Board to effect a bargaining unit modification; however, any modification ordered by the board shall not be effective until July 1, 1995, at the earliest.

(3) If no modification is effected, the state classifications used by the California Maritime Academy on June 30, 1995, shall, on July 1, 1995, be placed in new bargaining units under the Higher Education Employer-Employee Relations Act (Chapter 12 (commencing with Section 3560) of Division 4 of Title 1) for the California Maritime Academy parallel to the bargaining units as they exist on June 30, 1995, and shall continue unless and until a unit modification is ordered by the Public Employment Relations Board.

(4) The exclusive representatives for each state bargaining unit representing California Maritime Academy employees, as those representatives and units exist on June 30, 1995, shall continue as the exclusive representatives for their respective bargaining units unless an election is called, but in no case may any such change in exclusive representative occur prior to July 1, 1995. An election is not required to be held, and if no election occurs, the exclusive representatives shall continue as the exclusive representatives with responsibility to meet and confer with the Trustees of the California State University or their designees on collective bargaining issues. Notwithstanding any provision of the act that added this section to the Government Code, and to the extent authorized by law, the scope of representation shall at least include any subject matter contained in the current memoranda of understanding.

SEC. 7. Section 2 of this act shall become operative on June 30, 1995.

CHAPTER 1299

An act to add and repeal Section 42008.1 of the Vehicle Code, relating to penalties.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 42008.1 is added to the Vehicle Code, to read:

42008.1. Any county that has not operated an amnesty program pursuant to Section 42008 since May 1, 1992, may operate an amnesty program pursuant to this section for delinquent fines and bail imposed for an infraction or misdemeanor violation of this code, except parking violations of this code and violations of Section 23103, 23104, 23152, or 23153. An amnesty program may be operated pursuant to this section for only one time. 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 has been delinquent for six months or more as of the first date of the amnesty program.

(b) Under an amnesty program authorized by this section, any person owing a fine or bail that has been delinquent for six months or more, as of the first date of the amnesty program, that was imposed for an infraction or misdemeanor violation of this 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.

(e) 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 1300

An act to repeal Sections 33336, 44223, and 71093 of the Education Code, to amend Section 1153 of, and to add Section 12420.2 to, the Government Code, to amend Section 770.3 of the Insurance Code, to repeal Section 6054 of the Penal Code, and to repeal Sections 1752.2, 4009.5, and 4414 of the Welfare and Institutions Code, relating to public officers and employees.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 33336 of the Education Code is repealed.

SEC. 2. Section 44223 of the Education Code is repealed.

SEC. 3. Section 71093 of the Education Code is repealed.

SEC. 4. Section 1153 of the Government Code is amended to read:

1153. The Controller shall provide for the administration of payroll deductions as set forth in Sections 1151, 1151.5, and 1152, salary reductions pursuant to Section 12420.2, and may establish, by rule or regulation, procedures for that purpose.

In administering these programs the Controller shall:

(a) Make, cancel, or change a deduction or reduction at the request of the person or organization authorized to have the deduction or reduction. All requests shall be made on forms approved by the Controller.

(b) Obtain a certification from any state agency, employee organization, or business entity requesting a deduction or reduction that they have and will maintain an authorization, signed by the individual from whose salary or wages the deduction or reduction is to be made.

(c) Provide for an agreement from individuals, organizations, and business entities receiving services to relieve the state, its officers and employees, of any liability that may result from making, canceling, or changing requested deductions or reductions. However, no financial institution receiving a payroll service pursuant to this section shall be required to reimburse the state for any error in the payroll service received by that financial institution after 90 days from the month in which the payroll service was deducted from an individual's paycheck.

(d) Determine the cost of performing the requested service and collect that cost from the organization, entity, or individual requesting or authorizing the service. Services requested which are incidental, but not necessary, to making the deduction may be performed at the Controller's discretion with any additional cost to be paid by the requester. At least 30 days prior to implementation of any adjustment of employee costs pursuant to Section 12420.2, the

Controller shall notify in writing any affected employee organization.

(e) Prior to making a deduction for an employee organization or a bona fide association, determine that the organization or association has been recognized, certified, or registered by the appropriate authority.

(f) Decline to make salary services for any individual, organization, or entity if the Controller determines that it is not administratively feasible or practical, or if the Controller determines that the individual, organization, or entity requesting or receiving the salary service has failed to comply with any statute, rule, regulation, or procedure for the administration of salary services.

(g) Make, cancel, or change a deduction or reduction not later than the month subsequent to the month in which the request is received. Except as provided in subdivision (c), all cancellations or changes shall be effective when made by the Controller.

(h) At the request of a state agency, transfer employee deduction authorization for a state-sponsored benefit program from one provider to another if the benefit and the employee contribution remain substantially the same. Notice of the transfer shall be given by the Controller to all affected employees.

SEC. 5. Section 12420.2 is added to the Government Code, to read:

12420.2. The Controller may purchase annuity contracts for permanent employees of the State Department of Education, Department of the Youth Authority, Board of Governors of the California Community Colleges, Department of Corrections, State Department of Mental Health, California Maritime Academy, Commission for Teacher Credentialing, and State Department of Developmental Services and shall reduce the salary of each employee for whom an annuity contract is purchased by the amount of the cost thereof provided that all of the following conditions are met:

(a) The annuity contract is under an annuity plan which meets the requirements of subdivision (b) of Section 403 of the Internal Revenue Code of 1954 and Section 17512 of the Revenue and Taxation Code.

(b) The employee makes application to the Controller for the purchase and reduction of salary.

(c) All provisions of the Insurance Code applicable to the purchase of those annuities are satisfied.

SEC. 6. Section 770.3 of the Insurance Code is amended to read:

770.3. No state department or agency shall negotiate any life or disability insurance or require the placing of that insurance through particular agents, brokers, or companies, except to the extent that the state has a direct financial interest in the subject of the insurance. The state has no financial interest in an annuity purchased for an employee where the premium therefor is paid from a deduction from or reduction in the employee's salary, and any annuity paid for

through a deduction or reduction shall not be deemed to have been provided by the state for its employees for purposes of this section, and the state shall not negotiate or require the placing of the annuity through particular agents, brokers, or companies. Nothing herein contained shall affect the program of life and disability insurance in connection with veterans' farm and home purchases through the Department of Veterans Affairs except that the total life insurance benefit under that program shall in no event exceed one hundred twenty percent (120%) of the unpaid contract balance. Except in those cases where the premium for an annuity is paid entirely from a deduction from or reduction in an employee's salary, nothing contained herein shall affect life or disability insurance programs which may be provided by the state for its employees.

Notwithstanding anything in this section to the contrary, in any case in which a tax-sheltered annuity under an annuity plan which meets the requirements of Section 403(b) of the Internal Revenue Code of 1954 is to be placed or purchased for an employee, the employee shall have the right to designate the licensed agent, broker, or company through whom the employee's employer shall arrange for the placement or purchase of the tax-sheltered annuity. In any case in which the employee has designated an agent, broker, or company, the employer shall comply with that designation, except in the case of designations subject to the provisions of Sections 1153 and 12420.2 of the Government Code.

As used in this section, "state department or agency" shall include, but not be limited to, school districts and the University of California.

This section shall apply to all local governmental agencies, as well as state departments and agencies.

SEC. 7. Section 6054 of the Penal Code is repealed.

SEC. 8. Section 1752.2 of the Welfare and Institutions Code is repealed.

SEC. 9. Section 4009.5 of the Welfare and Institutions Code is repealed.

SEC. 10. Section 4414 of the Welfare and Institutions Code is repealed.

CHAPTER 1301

An act to add Chapter 11 (commencing with Section 2900) to Division 3 of the Fish and Game Code, and to add Article 3.1 (commencing with Section 50060) to Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code, relating to public improvements.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

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

(a) Natural habitat within various parts of the state is being lost and the existence of fish and wildlife is being jeopardized by increased urbanization and by continuing residential, commercial, and industrial development.

(b) There is a need for additional funding to restore and maintain natural habitat which remains after urbanization, which in many cases may offset and mitigate the loss of habitat from that urbanization.

(c) The conservation of fish and wildlife habitat benefits adjacent land and land within the surrounding local and regional areas by providing to the residents and users of these areas the biological diversity of wildlife, aesthetic and spiritual relief from urbanization, and recreational and educational opportunities. It is the intent of the Legislature that the benefits thereof should be attributed and assessed on a broad geographic basis.

(d) It is the policy of this state, and a matter of statewide concern, to encourage cooperation among cities, counties, associations of local governments, state and federal agencies, and public and private sector interests to conserve natural habitat in coordination with urban development.

SEC. 2. Chapter 11 (commencing with Section 2900) is added to Division 3 of the Fish and Game Code, to read:

CHAPTER 11. HABITAT MAINTENANCE DISTRICTS

2900. This chapter shall be known and may be cited as the Habitat Maintenance Funding Act.

2901. (a) A local agency may establish an assessment district pursuant to Article 3.1 (commencing with Section 50060) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code for the improvement or maintenance of natural habitat, in a manner consistent with the policies and procedures of this code. Funds generated pursuant to this chapter may not be allocated to implement a plan without the approval of the owner of the land to be improved.

(b) A local agency may provide for the long-term maintenance of natural habitat pursuant to Section 50060.5 of the Government Code only pursuant to a plan for the conservation of natural habitat approved by the department.

SEC. 3. Article 3.1 (commencing with Section 50060) is added to Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code, to read:

Article 3.1. Habitat Maintenance Assessment Districts

50060. As used in this article:

(a) "District" means a habitat maintenance assessment district formed pursuant to this article.

(b) "Improvement" means one or any combination of the following:

(1) The acquisition, construction, or rehabilitation of any facilities needed to create, restore, enhance, or maintain natural habitat.

(2) The installation or construction of any facilities which are appurtenant to any facilities in paragraph (1) 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.

(3) The installation of habitat improvements, including, but not limited to, any of the following:

(A) Land preparation, such as grading, leveling, cutting and filling, sod, landscaping, irrigation systems, sidewalks, and drainage.

(B) The maintenance or servicing, or both, of any of the foregoing.

(4) The acquisition of land for habitat maintenance purposes.

(5) The acquisition of any existing improvement otherwise authorized pursuant to this article.

(c) "Incidental expenses" include all of the following:

(1) The costs of preparation of the report, including plans, specifications, estimates, diagrams, and assessment.

(2) The costs of printing, advertising, and the giving of published, posted, and mailed notices.

(3) Compensation payable to the county for collection of assessments.

(4) Compensation of any engineer, scientist, or attorney employed to render services in proceedings pursuant to this article. The compensation shall not exceed the estimated amount required to provide the service.

(5) Any other expenses incidental to the construction, installation, or maintenance and servicing of the improvements.

(6) Any expenses incidental to the issuance of bonds or notes pursuant to Section 50068.

(7) The costs of biological monitoring and evaluation of collected data related to the establishment or operation of natural habitat.

(8) The direct costs incurred by the Department of Fish and Game in approving long-term natural habitat maintenance plans pursuant to Section 2901 of the Fish and Game Code.

(d) "Legislative body" means the city council, board of supervisors, or any other governing body of a local agency.

(e) "Local agency" means any city, county, or city and county, whether general law or chartered.

(f) "Maintain" or "maintenance" means the furnishing of services

and materials for the ordinary and usual maintenance, operation, and servicing of any improvement, including, but not limited to, all of the following:

(1) Repair, removal, or replacement of all or any part of any improvement.

(2) Providing for the life, growth, health, and beauty of habitat, including cultivation, irrigation, trimming, spraying, fertilizing, or treating for disease or injury.

(3) The removal of trimmings, rubbish, debris, and other solid waste.

(4) The operation and management of natural habitat, including biological monitoring and evaluation of collected data.

(5) The conduct of biological activities necessary to sustain the species being protected.

50060.5. (a) A local agency may, by ordinance or by resolution adopted after notice and hearing, establish a district to provide for the improvement or maintenance of natural habitat. The local agency may perform those functions or contract with the state, another local agency, or a special district to perform those functions. If a local agency establishes a district, it may provide for the levy of assessments for not more than 30 years to pay the cost and incidental expenses of implementing a long-term natural habitat maintenance plan approved by the Department of Fish and Game pursuant to Section 2901 of the Fish and Game Code. Any assessments levied pursuant to this section shall be levied only in accordance with a plan for the conservation of natural habitat approved by the Department of Fish and Game. No plan shall be approved by the Department of Fish and Game unless it contains provisions for the recovery of all costs incurred by the department in its review of the plan for the conservation of natural habitat.

(b) The legislative body of the local agency establishing a district shall serve as the legislative body of the district.

(c) Notwithstanding any other provision of this article, assessments levied pursuant to this article shall not be reduced or terminated if doing so would interfere with the implementation of an approved plan for the conservation of natural habitat.

(d) This article applies only to the implementation of a long-term natural habitat maintenance plan by a district, and does not alter, limit, or otherwise affect any other district that has been, or may be, established pursuant to law, including, but not limited to, any other district relating to wildlife habitat.

(e) The Cortese-Knox Local Government Reorganization Act of 1985, Division 1 (commencing with Section 56000) of Title 6, does not apply to a district formed pursuant to this article.

50061. (a) The ordinance or resolution shall establish uniform assessment rates based on the costs of providing the maintenance or improvement by the district. The assessment shall be related to the benefits to the property assessed. The maximum amount that may be assessed for habitat maintenance on any lot or parcel for purposes of

paying costs incurred in 1994 for long-term maintenance of natural habitat pursuant to this article shall not exceed twenty-five dollars ($25). For subsequent years, the maximum amount that may be assessed for this purpose shall not exceed twenty-five dollars ($25) increased by the percentage increase in the California Consumer Price Index between December 1993 and December of the year prior to the year of the assessment. The total amount assessed shall not exceed the anticipated actual costs of the authorized maintenance of natural habitat.

(b) Notwithstanding subdivision (a), land that is devoted primarily to agricultural, timber, or livestock uses and which is being used for the commercial production of agricultural, timber, or livestock products may be subject to an assessment by a district for the acquisition, construction, or operation and maintenance of natural habitat pursuant to this article only if the legislative body makes both of the following determinations:

(1) The agricultural, timber, or livestock land will be specially benefited by the natural habitat. The determination shall identify the nature of the benefit to the land.

(2) Agricultural, timber, or livestock uses or practices will be eliminated in a manner that will adversely affect the habitat area or the flora or fauna that the natural habitat is intended to protect, or the owner of the land has agreed to the assessment. No land is subject to an assessment until its agricultural, timber, or livestock use is eliminated or until the owner consents to the assessment, whichever occurs first.

(c) Division 4.5 (commencing with Section 3100) of the Streets and Highway Code applies to proceedings in which the legislative body determines to issue bonds or notes pursuant to Section 50068, or to finance a long-term natural habitat maintenance program in a district, and may be applied to any other proceedings pursuant to this article at the discretion of the legislative body.

50061.5. (a) The legislative body of the local agency shall cause to be prepared and filed with the clerk of the local agency a written report which shall contain all of the following:

(1) Plans and specifications for the improvements.

(2) An estimate of the costs of the improvements.

(3) A diagram of the district and a description of each lot or parcel of property proposed to be subject to the assessment.

(4) The amount of the assessment for each lot or parcel for the initial fiscal year and the maximum amount of the assessment that may be levied for each lot or parcel during any fiscal year thereafter.

(5) The duration of the assessment.

(6) The basis of the assessment.

(7) The schedule of the assessment.

(8) A description specifying the requirements for written protests and the protest thresholds necessary for requiring a vote on, or abandonment of, the proposed assessment.

(b) If the report proposes the levy of an assessment for more than

one year to pay debt service on bonds or notes, or to pay for the maintenance of natural habitat, the report shall also contain both of the following:

(1) If bonds or notes will be issued pursuant to Section 50068, an estimate of their principal amount.

(2) A general description of the habitat maintenance program and a statement of the maximum costs of the maintenance program for each year of its expected duration.

50062. (a) The assessment shall refer to the fiscal year to which it applies and shall do all of the following:

(1) State the net amount, determined in accordance with Section 50061, to be assessed upon assessable lands within the district, which shall include an amount sufficient to pay the principal and interest due during the fiscal year from each parcel on any bonds or notes issued pursuant to Section 50068, and shall also include the amount needed to pay for the long-term natural habitat maintenance program of a district.

(2) Describe each assessable lot or parcel of land within the district.

(3) Assess the net amount upon all assessable lots or parcels of land within the district by apportioning that amount among the several lots or parcels in proportion to the estimated benefits to be received by each lot or parcel from the improvements.

(b) The assessment may refer to the county assessment roll for a description of the lots or parcels, in which case that roll shall govern for all details concerning the description of the lots or parcels.

50062.5. If a district established pursuant to this article levies an assessment under this article to maintain or improve natural habitat, any lot or parcel is presumed to specifically benefit from the natural habitat if one or all of the following occur:

(a) The past or proposed development or use of that lot or parcel has adversely affected or will adversely affect the habitat area or the flora and fauna which the natural habitat is intended to protect, and the extent to which a parcel benefits from the natural habitat shall be based on the degree to which the past or proposed use of the parcel has adversely affected or will adversely affect the habitat area or the flora or fauna that the natural habitat is intended to protect.

(b) The lot or parcel otherwise benefits from the maintenance or improvement of the habitat area or the flora or fauna that the natural habitat is intended to protect.

50063. After approval of the report, either as filed or as modified, the legislative body shall adopt a resolution of intention. The resolution shall do all of the following:

(a) Declare the intention of the legislative body to order the formation of a district, to levy and collect assessments, and, if desired, to issue bonds or notes, to provide for the long-term maintenance of natural habitat pursuant to this article.

(b) Generally describe the improvements.

(c) Refer to the proposed district by its distinctive designation

and indicate the general location of the district.

(d) Refer to the report on file with the clerk of the local agency for a full and detailed description of the improvements, the boundaries of the district, any bonds or notes to be issued, any provisions for the long-term maintenance of natural habitat, and the proposed assessments upon assessable lots and parcels of land within the district.

(e) Give notice of, and fix a time and place for, a hearing by the legislative body on, among other things, the question of the formation of the district and the levy of the proposed assessment.

50063.5. (a) The legislative body may establish zones or areas of benefit within the district and shall restrict the imposition of assessments to areas lying within those zones or areas of benefit.

(b) The benefit assessment shall be levied on a parcel basis within the boundaries of the district.

(c) The assessment may be levied against any parcel that benefits from habitat maintenance services that may be made available whether or not the service is actually used.

50064. The clerk of the local agency shall cause notice of the filing of the report prepared pursuant to Section 50061.5, and of a time, date, and place of hearing thereon to be published pursuant to Section 6066 of the Government Code and to be posted in at least three public places within the district. The clerk shall also cause a copy of the notice of the filing of the report and of the time, date, and place of hearing thereon to be mailed to each parcel or property owner whose property would be subject to the assessment. The notice shall be mailed at least 45 days prior to the date set for hearing to those persons whose name and address appear on the last equalized county assessment roll, the State Board of Equalization assessment roll, or as known to the clerk. The mailed notice shall include the name of the local agency, the return address of the sender, the amount of the initial assessment, the amount of the maximum assessment, the general description of the improvements that the assessment will fund, the duration and basis of the assessment, the address to which holders of a property interest may mail a protest against the assessment, a statement that a majority protest shall cause the assessment to be abandoned for one year, the dates, times, and location of the public hearings, and a summary of the procedure for making a protest pursuant to Section 50064.5. The notice shall also contain the name and telephone number of the person designated by the legislative body to answer inquiries regarding the protest proceedings.

50064.5. At any time not later than the hour set for the hearing, any holder, whether a fee owner, lessee, or otherwise, of the interest in the property that is proposed to be assessed and who will be obligated to pay any proposed assessment, may make a written protest against the proposed assessment. The protest shall be in writing and shall contain a description of the property and the interest in the property which each signer of the protest represents

sufficient to identify the property. If the signers are not shown on the last equalized assessment roll as the owners of that property, the protest shall contain or be accompanied by written evidence that the signers are the holders of the property interest proposed to be charged and who will be obligated to pay the proposed charge. All protests shall be delivered to the clerk of the local agency and, for the purposes of Section 50065.5, no other protests or objections shall be considered.

50065. (a) At the time, date, and place stated in the notice the legislative body shall hear and consider all protests, if any, to the report referred to in the notice and shall also hear and determine all protests as provided in Section 50065.5. The legislative body may continue the hearing from time to time.

(b) Any written protest may be withdrawn, in writing, by the person who made the protest at any time prior to the conclusion of the protest hearing or any adjournment of the hearing.

50065.5. (a) If the legislative body finds that the protest is made by holders of property interests proposed to be assessed who will be obligated to pay the proposed assessment and that they represent more than 15 percent of the holders but less than 35 percent, and protests are not withdrawn so as to reduce the number to less than 15 percent, the proposed assessment shall either be submitted to approval by a majority of the voters of the assessment district, zone, or area of benefit voting on the proposition or abandoned for not less than one year.

(b) If the holders of the property interests proposed to be assessed protesting equal 35 percent or more of the total number of holders of property interests proposed to be assessed, and the protests are not withdrawn so as to reduce the number to less than 35 percent, the proposed assessment shall be abandoned for not less than one year.

50066. If the local agency is a city, it shall pay the county for costs, if any, incurred by the county in conducting the election. An election called by a legislative body pursuant to this article is subject to all provisions of the Elections Code applicable to elections called by the local agency. The local agency may recover the costs of the election and any other costs of preparing and levying the assessment from the proceeds of the assessment.

50066.5. If it is necessary, in order to find whether a 15 percent or 35 percent protest exists, to determine whether any or all of the signers of written protests are the holders of property interests proposed to be assessed who will be obligated to pay the proposed assessment, the legislative body shall make the determination from the latest equalized assessment roll, any written evidence submitted with a written protest, and any other evidence received at the hearing. The legislative body is under no duty to obtain or consider any other evidence as to the holding of property interests, and its determination of valid protests shall be final and conclusive.

50067. (a) If no protests have been delivered to the clerk up to the hour set for hearing thereon, or if valid protests have been found

by the legislative body to be less than 15 percent of the total number of holders of property interests proposed to be assessed and who will be obligated to pay the proposed assessment, the legislative body may adopt a resolution ordering the improvements and the formation of the district and confirming the diagram and assessment, either as originally proposed by the legislative body or as changed by it. Except as provided in subdivision (b) or (c), the adoption of the resolution shall constitute the levy of an assessment for the fiscal year referred to in the assessment.

(b) If bonds or notes are to be issued pursuant to Section 50068, the adoption of the resolution shall constitute the levy of an assessment for a principal amount which may be collected in annual installments. The clerk shall record a notice and map describing the assessment pursuant to Division 4.5 (commencing with Section 3100) of the Streets and Highways Code.

(c) If the district will finance a long-term natural habitat maintenance program, the adoption of the resolution constitutes the levy of a series of annual assessments for each of several years to pay the costs of maintaining natural habitat pursuant to Section 50060.5. The clerk shall record a notice and map describing the assessments pursuant to Division 4.5 (commencing with Section 3100) of the Streets and Highways Code.

50067.5. The legislative body may provide for the collection of the assessment in the same manner, and subject to the same penalties as, other fees, charges, and taxes fixed and collected by, or on behalf of the local agency. If the assessments are collected by a county on behalf of a city, the county may deduct its reasonable costs incurred for that service before remittal of the balance to the city.

50068. (a) The legislative body may, by resolution, determine and declare that bonds shall be issued to finance the estimated cost of the proposed improvements described in Section 50060.5, other than the costs of maintenance and servicing, under either the Improvement Act of 1911 (Division 7 (commencing with Section 5000), S.& H.C.) or the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500), S.& H.C.). Either Part 5 (commencing with Section 6400) of Division 7 or Division 10 (commencing with Section 8500) of the Streets and Highways Code, as the case may be, shall govern all proceedings relating to the issuance of those bonds. The pertinent provisions of that division which apply to the legislative body of a city shall also apply to the legislative body of a district formed pursuant to this article. Alternatively, the legislative body may determine and declare that notes shall be issued for the same purposes for which bonds may be issued. The maximum term to maturity of any notes issued shall not exceed 10 years.

(b) The resolution shall generally describe the proposed improvements specified in Section 50060.5, set forth the estimated cost thereof, specify the number of annual installments and the fiscal years during which they are to be collected, and fix or determine the

maximum amount of each annual installment necessary to retire the bonds or notes. The amount of debt service to retire the bonds shall not exceed the amount of revenue estimated to be raised from assessments over 30 years. The amount of debt service to retire the notes shall not exceed the amount of revenue to be raised from the assessments over 10 years.

(c) Notwithstanding any other provision of this article, assessments levied to pay the principal of, and interest on, any bond or note issued pursuant to this section, shall not be reduced or terminated if doing so would interfere with the timely retirement of the debt.

50068.5. The legislative body shall provide by resolution each year for the levy and collection of annual assessments to pay for the long-term maintenance of natural habitat pursuant to this article in the amounts previously authorized. The resolution shall include a diagram and assessment against each lot or parcel subject to assessment for those purposes. If the assessments are to be increased above the amount levied for the previous year, notice of a public meeting and a public hearing, as required by Section 54954.6 of the Government Code, shall be mailed as provided in subdivision (c) of that section. The levy and collection of assessments for those purposes may be coordinated with the levy and collection of assessments pursuant to any other provision of law in any manner that the legislative body determines to be necessary or convenient.

50069. Any resolution providing for the levy of assessments for payment of debt service on bond debt or notes, or for the long-term maintenance of natural habitat, or any hearings upon the formation of a district, or upon the levy of annual assessments after formation of a district shall be concluded and any resolution confirming a diagram and an assessment shall be adopted not later than either of the following dates:

(a) July 1 of the fiscal year during which the assessments are to be collected on the county assessment roll.

(b) A later date, not beyond the third Monday in August, that the county auditor authorizes.

50069.5. (a) Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure applies to any judicial action or proceeding to validate, attack, review, set aside, void, or annul an ordinance or resolution levying an assessment or modifying or amending an existing ordinance or resolution.

(b) If an ordinance or resolution provides for an automatic adjustment in an assessment, and the automatic adjustment results in an increase in the amount of an assessment, any action or proceeding to attack, review, set aside, void, or annul the increase shall be commenced within 90 days of the effective date of the increase.

(c) Any appeal from a final judgment in the action or proceeding brought pursuant to this section shall be filed within 30 days after entry of the judgment.

50070. This article does not limit or prohibit the levy or collection of any other fee, charge, assessment, or tax for habitat maintenance authorized by any other provision of law.

SEC. 4. The purpose of this act is to provide local agencies with additional authority to establish secure and long-term funding sources for implementing long-term natural habitat maintenance plans that are approved by the Department of Fish and Game by assessing lands whose use affects, or has affected, the habitat values to be maintained.

CHAPTER 1302

An act to amend Section 49076 of the Education Code, and to amend Sections 44, 607, 702, 1019, 2651, 2653, 10010, 10216, and 10220 of, to add Section 509.1 to, to repeal Sections 2554, 3712, 5155, 6051, 6052, 6053, 6161, 6162, 6163, 6262, 6263, 6264, 6361, 6362, 6363, 6464, 6465, 6466, 6585, 6586, 6587, and 6588 of, and to repeal and add Sections 9620, 9660, 9721, and 10232 of, the Elections Code, relating to elections.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 49076 of the Education Code is amended to read:

49076. A school district is not authorized to permit access to pupil records to any person without written parental consent or under judicial order except that:

(a) Access to those particular records relevant to the legitimate educational interests of the requester shall be permitted to the following:

(1) School officials and employees of the district, members of a school attendance review board appointed pursuant to Section 48321, and any volunteer aide, 18 years of age or older, who has been investigated, selected, and trained by a school attendance review board for the purpose of providing followup services to students referred to the school attendance review board, provided that the person has a legitimate educational interest to inspect a record.

(2) Officials and employees of other public schools or school systems, including local, county, or state correctional facilities where educational programs leading to high school graduation are provided, where the pupil intends to or is directed to enroll, subject to the rights of parents as provided in Section 49068.

(3) Authorized representatives of the Comptroller General of the United States, the Secretary of Health, Education, and Welfare, and administrative head of an education agency, state education officials,

or their respective designees, or the United States Office of Civil Rights, where the information is necessary to audit or evaluate a state or federally supported education program or pursuant to a federal or state law, provided that except when collection of personally identifiable information is specifically authorized by federal law, any data collected by those officials shall be protected in a manner which will not permit the personal identification of students or their parents by other than those officials, and any personally identifiable data shall be destroyed when no longer needed for the audit, evaluation, and enforcement of federal legal requirements.

(4) Other state and local officials to the extent that information is specifically required to be reported pursuant to state law adopted prior to November 19, 1974.

(5) Parents of a pupil 18 years of age or older who is a dependent as defined in Section 152 of the Internal Revenue Code of 1954.

(6) A pupil 16 years of age or older or having completed the 10th grade who requests access.

(7) Any district attorney who is participating in or conducting a truancy mediation program pursuant to Section 48263.5, or Section 601.3 of the Welfare and Institutions Code, or participating in the presentation of evidence in a truancy petition pursuant to Section 681 of the Welfare and Institutions Code.

(8) A prosecuting agency for consideration against a parent or guardian for failure to comply with the Compulsory Education Law (Chapter 2 (commencing with Section 48200) of Part 27 of Division 4 of Title 2) or with Compulsory Continuation Education (Chapter 3 (commencing with Section 48400) of Part 27 of Division 4 of Title 2).

(9) Any probation officer or district attorney for the purposes of conducting a criminal investigation or an investigation in regards to declaring a person a ward of the court or involving a violation of a condition of probation.

(b) School districts may release information from pupil records to the following:

(1) Appropriate persons in connection with an emergency if the knowledge of the information is necessary to protect the health or safety of a student or other persons.

(2) Agencies or organizations in connection with a student's application for, or receipt of, financial aid. However, information permitting the personal identification of students or their parents may be disclosed only as may be necessary for purposes as to determine the eligibility of the pupil for financial aid to determine the amount of the financial aid, to determine the conditions which will be imposed regarding the financial aid, or to enforce the terms or conditions of the financial aid.

(3) The county elections official, for the purpose of identifying students eligible to register to vote, and for conducting programs to offer students an opportunity to register to vote. The information, however, shall not be used for any other purpose or given or

transferred to any other person or agency.

(4) Accrediting associations in order to carry out their accrediting functions.

(5) Organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if the studies are conducted in a manner that will not permit the personal identification of students or their parents by persons other than representatives of the organizations and the information will be destroyed when no longer needed for the purpose for which it is obtained.

(6) Officials and employees of private schools or school systems where the pupil is enrolled or intends to enroll, subject to the rights of parents as provided in Section 49068. This information shall be in addition to the pupil's permanent record transferred pursuant to Section 49068.

No person, persons, agency, or organization permitted access to pupil records pursuant to this section shall permit access to any information obtained from those records by any other person, persons, agency, or organization without the written consent of the pupil's parent. However, this paragraph shall not be construed as requiring prior parental consent when information obtained pursuant to this section is shared with other persons within the educational institution, agency, or organization obtaining access, so long as those persons have a legitimate interest in the information.

SEC. 2. Section 44 of the Elections Code is amended to read:

44. (a) Wherever any petition or paper is submitted to the clerk, each section of the petition or paper shall have attached to it a declaration signed by the circulator of the petition or paper, setting forth, in the circulator's own hand, the following:

(1) The printed name of the circulator.

(2) The residence address of the circulator, giving street and number, or if no street or number exists, adequate designation of residence so that the location may be readily ascertained.

(3) The dates between which all the signatures to the petition or paper were obtained.

(b) Each declaration submitted pursuant to this section shall also set forth the following:

(1) That the circulator circulated that section and witnessed the appended signatures being written.

(2) That according to the best information and belief of the circulator, each signature is the genuine signature of the person whose name it purports to be.

(c) The circulator shall certify to the content of the declaration as to its truth and correctness, under penalty of perjury under the laws of the State of California, with the signature of his or her name at length, including given name, middle name or initial, or initial and middle name. The circulator shall state the date and the place of execution on the declaration immediately preceding his or her

signature.

SEC. 3. Section 509.1 is added to the Elections Code, to read:

509.1. (a) No affidavits of registration other than those provided by the Secretary of State to the county elections officials shall be used for the registration of voters.

(b) No voter registration card shall be altered, defaced, or changed in any way, other than by the insertion of a mailing address and the affixing of postage, if mailed, or as otherwise specifically authorized by the Secretary of State, prior to distribution of the cards.

(c) The affidavit portion of a voter registration card shall not be marked, stamped, or partially or fully completed by any person other than an elector attempting to register to vote or by a person assisting the elector in completing the affidavit at the request of the elector.

SEC. 4. Section 607 of the Elections Code is amended to read:

607. (a) Each county elections official shall send to the Secretary of State, in a format described by the Secretary of State, a summary statement of the number of voters in the county. The statement shall show the total number of voters in the county, the number registered as affiliated with each qualified political party, the number registered in nonqualified parties, and the number who declined to state any party affiliation. The statement shall also show the number of voters, by political affiliations, in each city, supervisorial district, Assembly district, Senate district, and congressional district, located in whole or in part within the county.

(b) The Secretary of State, on the basis of the statements sent by the county clerks and within 30 days after receiving those statements, shall compile a statewide list showing the number of voters, by party affiliations, in the state and in each county, city, supervisorial district, Assembly district, Senate district, and congressional district, in the state. A copy of this list shall be made available, upon request, to any elector in this state.

(c) Each county that uses data processing equipment to store the information set forth in the affidavit of registration shall send to the Secretary of State one copy of the magnetic tape file with the information requested by the Secretary of State. Each county that does not use data processing storage shall send to the Secretary of State one copy of the index setting forth that information.

(d) The summary statements and the magnetic tape file copy or the index shall be sent at the following times:

(1) On the 135th day before each presidential primary and before each direct primary, with respect to voters registered on the 154th day before the primary election.

(2) Not less than 50 days prior to the primary election, with respect to voters registered on the 60th day before the primary election.

(3) Not less than 10 days prior to the primary election, with respect to voters registered before the 28th day prior to the primary election.

(4) Not less than 50 days prior to the general election, with respect to voters registered on the 60th day before the general election.

(5) Not less than 10 days prior to the general election, with respect to voters registered before the 28th day prior to the general election.

(6) On or before March 1 of each odd-numbered year, with respect to voters registered as of February 10.

(7) On or before October 1 of each odd-numbered year, with respect to voters registered as of September 12.

(e) The Secretary of State may adopt regulations prescribing the context and format of the magnetic tape file or index referred to in subdivision (c) and containing the registered voter information from the affidavits of registration.

(f) The Secretary of State may adopt regulations prescribing additional regular reporting times, except that the total number of reporting times in any one calendar year shall not exceed 12.

(g) The Secretary of State shall make the information from the magnetic tape files or the printed indexes available, under conditions prescribed by the Secretary of State, to any candidate for federal, state, or local office, to any committee for or against any proposed ballot measure, to any committee for or against any initiative or referendum measure for which legal publication is made, and to any person for election, scholarly or political research, or governmental purposes as determined by the Secretary of State.

SEC. 5. Section 702 of the Elections Code is amended to read:

702. (a) The county elections official shall preserve all uncanceled affidavits of registration.

The affidavits of registration shall constitute the register required to be kept by this chapter.

(b) In lieu of maintaining uncanceled affidavits of registration, the county elections official may, following the first general election after the date of registration, microfilm, record on optical disc, or record on any other electronic medium that does not permit additions, deletions, or changes to the original document, the uncanceled affidavits of registration. The county elections official may dispose of any uncanceled affidavits of registration transferred pursuant to this section. Any medium utilized by the county elections official shall meet the minimum standards, guidelines, or both, as recommended by the American National Standards Institute, or the Association of Information and Image Management. For purposes of this section, a duplicate copy of an affidavit of registration shall be deemed an original.

SEC. 6. Section 1019 of the Elections Code is amended to read:

1019. Each ballot that is delivered pursuant to this chapter shall be accompanied by a ballot pamphlet, unless the voter has already been provided a ballot pamphlet.

SEC. 7. Section 2554 of the Elections Code is repealed.

SEC. 8. Section 2651 of the Elections Code is amended to read:

2651. The Governor shall call all statewide special elections by issuing a proclamation pursuant to Section 2553. In the case of a

vacancy in a congressional or legislative office the Governor shall issue a proclamation, within 14 calendar days of the occurrence of the vacancy, calling a special election in accordance with Section 7200.5.

A copy of the proclamation shall be sent to the board of supervisors of every affected county.

SEC. 9. Section 2653 of the Elections Code is amended to read:

2653. For a special local election, the governing body of the local agency shall issue a proclamation or a resolution calling the election.

SEC. 10. Section 3712 of the Elections Code is repealed.

SEC. 11. Section 5155 of the Elections Code is repealed.

SEC. 12. Section 6051 of the Elections Code is repealed.

SEC. 13. Section 6052 of the Elections Code is repealed.

SEC. 14. Section 6053 of the Elections Code is repealed.

SEC. 15. Section 6161 of the Elections Code is repealed.

SEC. 16. Section 6162 of the Elections Code is repealed.

SEC. 17. Section 6163 of the Elections Code is repealed.

SEC. 18. Section 6262 of the Elections Code is repealed.

SEC. 19. Section 6263 of the Elections Code is repealed.

SEC. 20. Section 6264 of the Elections Code is repealed.

SEC. 21. Section 6361 of the Elections Code is repealed.

SEC. 22. Section 6362 of the Elections Code is repealed.

SEC. 23. Section 6363 of the Elections Code is repealed.

SEC. 24. Section 6464 of the Elections Code is repealed.

SEC. 25. Section 6465 of the Elections Code is repealed.

SEC. 26. Section 6466 of the Elections Code is repealed.

SEC. 27. Section 6585 of the Elections Code is repealed.

SEC. 28. Section 6586 of the Elections Code is repealed.

SEC. 29. Section 6587 of the Elections Code is repealed.

SEC. 30. Section 6588 of the Elections Code is repealed.

SEC. 31. Section 9620 of the Elections Code is repealed.

SEC. 32. Section 9620 is added to the Elections Code, to read:

9620. The state convention shall meet biennially, at a location designated by the State Central Committee, at 10 a.m. on a Saturday following the direct primary election, but in no event later than August 15. At least 30 days before the selected date, the State Central Committee shall notify the Secretary of State of the date and location of the convention.

SEC. 33. Section 9660 of the Elections Code is repealed.

SEC. 34. Section 9660 is added to the Elections Code, to read:

9660. The committee shall convene in the same community where the state convention is held, at 10 a.m. on the Sunday following the state convention. At least 30 days before the meeting, the State Central Committee shall notify the Secretary of State of the date and location of the meeting.

SEC. 35. Section 9721 of the Elections Code is repealed.

SEC. 36. Section 9721 is added to the Elections Code, to read:

9721. The Secretary of State, no later than 125 days before the direct primary, shall compute the number of members of central committees to be elected in each county, and shall mail a certificate

reporting that information to the elections official of each county, to the chairperson of the American Independent Party State Central Committee, and to the chairperson of record of each American Independent Party Central Committee.

SEC. 37. Section 10010 of the Elections Code is amended to read:

10010. Each appropriate elections official, for each election shall cause to be printed, on plain white paper or tinted paper, without watermark, at least as many copies of the form of ballot provided for use in each voting precinct as there are voters in the precinct. These copies shall be designated "sample ballot" upon their face and shall be identical to the official ballots used in the election, except as otherwise provided by law. A sample ballot shall be mailed, postage prepaid, to each voter not more than 40 nor less than 21 days before the election.

The elections official shall send notice of the polling place to each voter with the sample ballot. Only official matter shall be sent out with the sample ballot as provided by law.

SEC. 38. Section 10216 of the Elections Code is amended to read:

10216. Candidates for each office shall be printed on the ballot in accordance with the following rules:

(a) The names of presidential candidates to whom candidates for delegate to the national convention are pledged and the names of chairmen or chairwomen of groups of candidates for delegate expressing no preference shall be arranged on the primary election ballot by the Secretary of State by the names of the candidates in accordance with the randomized alphabet as provided for in Section 10217 in the case of the ballots for the First Assembly District. Thereafter, for each succeeding Assembly district, the name appearing first in the last preceding Assembly district shall be placed last, the order of the other names remaining unchanged.

(b) The names of the pairs of candidates for President and Vice President shall be arranged on the general election ballot by the Secretary of State by the names of the candidates for President in accordance with the randomized alphabet as provided for in Section 10217 in the case of the ballots for the First Assembly District. Thereafter, for each succeeding Assembly district, the pair appearing first in the last preceding Assembly district shall be placed last, the order of the other pairs remaining unchanged.

(c) In the case of all other offices, the candidates for which are to be voted on throughout the state, the Secretary of State shall arrange the names of the candidates for the office in accordance with the randomized alphabet as provided for in Section 10217 for the First Assembly District. Thereafter, for each succeeding Assembly district, the name appearing first in the last preceding Assembly district shall be placed last, the order of the other names remaining unchanged.

(d) If the office is that of Representative in Congress or member of the State Board of Equalization, the Secretary of State shall arrange the names of candidates for the office in accordance with the randomized alphabet as provided for in Section 10217 for that

Assembly district which has the lowest number of all the Assembly districts in which candidates are to be voted on. Thereafter, for each succeeding Assembly district in which the candidates are to be voted on, the names appearing first in the last preceding Assembly district shall be placed last, the order of the other names remaining unchanged.

(e) If the office is that of State Senator or Member of the Assembly, the county clerk shall arrange the names of the candidates for the office in accordance with the randomized alphabet as provided for in Section 10217 unless the district encompasses more than one county, in which case the arrangement shall be made pursuant to subdivision (i).

(f) If the office is to be voted upon wholly within, but not throughout, one county, as in the case of municipal, district, county supervisor, municipal court, justice court, and county central committee offices, the official responsible for conducting the election shall determine the order of names in accordance with the randomized alphabet as provided for in Section 10217.

(g) If the office is to be voted on throughout a single county and there are not more than four Assembly districts wholly or partly in the county, the county clerk shall determine the order of names in accordance with the randomized alphabet as provided for in Section 10217 for the first supervisorial district. Thereafter, for each succeeding supervisorial district, the name appearing first for each office in the last preceding supervisorial district shall be placed last, the order of the other names remaining unchanged.

(h) If there are five or more Assembly districts wholly or partly in the county, an identical procedure shall be followed except that rotation shall be by Assembly district, commencing with the Assembly district which has the lowest number.

(i) Except as provided in subdivision (d) of Section 10217, if the office is that of State Senator or Member of the Assembly and the district includes more than one county, the county clerk in each county shall conduct a drawing of the letters of the alphabet, pursuant to the same procedures specified in Section 10217. The results of the drawing shall be known as a county randomized ballot and shall be used only to arrange the names of the candidates when the district includes more than one county.

(j) If the office is that of Justice of the California Supreme Court or a Court of Appeal, the appropriate elections officials shall arrange the names of the candidates for the office in accordance with the randomized alphabet as provided for in Section 10217. However, the names of the judicial candidates shall not be rotated among the applicable districts.

SEC. 39. Section 10220 of the Elections Code is amended to read:

10220. In the case of candidates for delegate to national convention, there shall be printed in boldface gothic type, not smaller than 12-point, across the column above the names of the persons preferred by the groups of candidates for delegates, the

words, "President of the United States." The words "Vote for one group only" shall extend to the extreme right-hand margin of the column and over the voting square.

In the case of candidates for President and Vice President, the words "Vote for One Party" shall appear just below the heading "President and Vice President" and shall be printed so as to appear above the voting squares for that office. The heading "President and Vice President" shall be printed in boldface 12-point gothic type, and shall be centered above the names of the candidates.

In the case of candidates for Justice of the Supreme Court and court of appeal, within the rectangle provided for each candidate, and immediately above each candidate's name, there shall appear the following: "For (designation of judicial office)." There shall be as many of these headings as there are candidates for these judicial offices. No heading shall apply to more than one judicial office. Underneath each heading shall appear the words "Shall (name of Justice) be elected to the office for the term expiring _____?"

In the case of all other candidates, each group of candidates to be voted on shall be preceded by the designation of the office for which they are running, and the words "vote for one" or "vote for no more than two," or more, according to the number to be nominated or elected. The designation of the office shall be printed flush with the left-hand margin in boldfaced gothic type not smaller than 8-point. The words, "vote for _____" shall extend to the extreme right-hand margin of the column and over the voting square. The designation of the office and the directions for voting shall be separated from the candidates by a light line. There shall be no line between the headings for federal or legislative offices, and the designation of the office and the directions for voting.

SEC. 40. Section 10232 of the Elections Code is repealed.

SEC. 41. Section 10232 is added to the Elections Code, to read:

10232. The ballots of each political party shall be designed so that each ballot may be easily and clearly distinguished and not confused as a ballot of any other political party.

SEC. 42. 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 1303

An act to amend Sections 5060 and 5066 of, and to add Section 5075 to, the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 5060 of the Vehicle Code is amended to read:

5060. (a) Any person described in Section 5101 may also apply for a set of special interest license plates, and the department shall issue those special interest license plates in lieu of the regular license plates if the issuance of those plates is authorized by this article. The plates shall provide a space to the left of the numerical series and below the numerical series for a distinctive design or decal as authorized by this article. The plates shall be issued in sequential numerical order. The distinctive design or decal shall be approved by the department.

(b) An organization participating in the special interest license plate program pursuant to this article may indicate to the department its intent to be included in the special interest license plate program and submit its proposed distinctive design for the plate. However, no organization may be included in the program until not less than 5,000 applications for the particular special interest license plates are received. Each organization shall collect and hold applications for the plates until it has received at least 5,000 applications. Once the organization has received at least 5,000 applications, it shall submit the applications, along with the necessary fees, to the department. The organization shall have one calendar year to receive the required applications following enactment of the specific legislation enabling the organization to participate in this program. If, after that calendar year, 5,000 applications have not been received, the organization shall immediately do either of the following:

(1) Refund to all applicants any fees or deposits that have been collected.

(2) Contact the department to indicate the organization's intent to undertake collection of additional applications and fees or deposits for an additional period, not to exceed 12 months, in order to obtain the minimum 5,000 applications. If an organization elects to exercise the option under this paragraph, it shall contact each applicant who has submitted an application with the appropriate fees or deposits to determine if the applicant wishes a refund of fees or deposits or requests the continuance of the holding of the application and fees or deposits until that time that the organization has received 5,000

applications. The organization shall refund the fees or deposits to any applicant so requesting. In no event shall an organization collect and hold applications for a period exceeding two calendar years following the operative date of the specific legislation enabling the organization to participate in the program.

(c) The department shall deduct its costs to develop and administer the special interest license plate program from the revenues collected for the plates.

(d) When payment of renewal fees is not required as specified in Section 4000, or when a person determines to retain the special interest license plate upon a sale, trade, or other release of the vehicle upon which the plate has been displayed, the person shall notify the department and the person may retain and use the plate as authorized by department regulations.

SEC. 2. Section 5066 of the Vehicle Code is amended to read:

5066. (a) This section shall be known, and may be cited, as the Gene Chappie Heritage Network Act of 1992.

(b) The Department of Parks and Recreation may participate in the special interest license plate program. In addition to the regular fees for an original registration, a renewal of registration, or a transfer of registration, the following fees shall be paid by individuals applying for the issuance, renewal, or transfer of a license plate bearing a design or decal conforming to Section 5060, designed by the Department of Motor Vehicles in consultation with the Department of Parks and Recreation:

(1) For the original issuance of the plates, forty dollars ($40).

(2) For a renewal of registration with the plates, thirty dollars ($30).

(3) For transfer of the plates to another vehicle, fifteen dollars ($15).

(4) For each substitute replacement plate, thirty-five dollars ($35).

(5) For each universal decal for existing plates, twenty dollars ($20).

(c) After deducting its administrative costs under this section, the Department of Motor Vehicles shall deposit the additional revenue derived from the issuance, renewal, transfer, and substitution of special interest license plates in the Heritage Network Decal Fund, which is hereby created in the State Treasury. The money in the fund shall be available, upon appropriation by the Legislature, for the purposes of Chapter 1.1 (commencing with Section 5078) of Division 5 of the Public Resources Code. Notwithstanding Sections 5078.2 and 5078.3 of the Public Resources Code, money in the fund shall be available for appropriation during the 1992–93, 1993–94, and 1994–95 fiscal years solely for state park system units and projects along existing and provisional state heritage corridors, including activities to prevent closures, and for completion of the North Central California Heritage Corridors Access Map.

(d) Sections 5106 and 5108 do not apply to license plates issued

pursuant to this section.

(e) Notwithstanding subdivision (b) of Section 5060, if, after one calendar year following receipt of the first application, 5,000 applications have not been received, the Department of Parks and Recreation shall refund to all applicants any fees or deposits that have been collected.

SEC. 3. Section 5075 is added to the Vehicle Code, to read:

5075. (a) The department, in consultation with the California Tahoe Conservancy, shall design and make available for issuance pursuant to this article special environmental design license plates as described in this section. Notwithstanding subdivision (a) of Section 5060, the special environmental design license plates shall bear a full-plate graphic design depicting a significant feature of Lake Tahoe. Any person described in Section 5101 may, upon payment of the additional fees set forth in subdivision (b), apply for and be issued a set of special environmental design license plates. Notwithstanding subdivision (a) of Section 5060, the special environmental design license plates may be issued as environmental license plates, as defined in Section 5103.

(b) In addition to the regular fees for an original registration or renewal of registration, the following additional fees shall be paid for the issuance, renewal, or transfer of the special environmental design license plates authorized pursuant to this section:

(1) For the original issuance of the plates, fifty dollars ($50).

(2) For a renewal of registration with the plates, forty dollars ($40).

(3) For transfer of the plates to another vehicle, fifteen dollars ($15).

(4) For each substitute replacement plate, thirty-five dollars ($35).

(5) In addition, for the issuance of environmental license plates, as defined in Section 5103, with a full-plate graphic design described in subdivision (a), the additional fees prescribed in Sections 5106 and 5108. The additional fees prescribed in Sections 5106 and 5108 shall be deposited in the Environmental License Plate Fund.

(c) Except as provided in paragraph (5) of subdivision (b), and after deducting its administrative costs under this section, the department shall deposit the additional revenue derived from the issuance, renewal, transfer, and substitution of special environmental design license plates in the Lake Tahoe Conservancy Account, which is hereby created in the California Environmental License Plate Fund. Upon appropriation by the Legislature, the money in the account shall be allocated by the Controller to the California Tahoe Conservancy or its successor for expenditure for the exclusive trust purposes of preservation and restoration projects in the Lake Tahoe area and for the purpose of establishing and improving trails, pathways, and public access for nonmotorized traffic in that area.

SEC. 4. The Department of Motor Vehicles shall undertake a study to determine whether the issuance of special Lake Tahoe

Conservancy personal vehicle license plates pursuant to Section 5075 of the Vehicle Code resulted in a decreased demand for the issuance of environmental license plates, as defined in Section 5103 of the Vehicle Code. The department shall report the results of that study to the Legislature on or before January 1, 1996.

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 ensure that there is sufficient time for organizations that participate in the special license plate program to obtain the required number of applications to be included in the program, it is necessary that this act take effect immediately.

CHAPTER 1304

An act to add Section 5101.2 to the Vehicle Code, relating to vehicles.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 5101.2 is added to the Vehicle Code, to read:

5101.2. (a) Any person otherwise eligible under this article who is a firefighter may apply for special license plates for the vehicle under this article. Any license plates issued pursuant to this section shall be issued in accordance with Section 5060.

(b) The applicant shall, by satisfactory proof, show all of the following:

(1) That the applicant is in good standing as an officer, an employee, or a member of a fire department or a fire service of the state, a county, a city, a district, or any other political subdivision of the state, whether in a volunteer, partly paid, or fully paid status.

(2) That the applicant is regularly employed as a firefighter or regularly enrolled as a volunteer firefighter.

(3) That the applicant's principal duties fall within the scope of active firefighting and any of the following:

(A) Fire prevention service.

(B) Fire training.

(C) Hazardous materials abatement.

(D) Arson investigation.

(E) Emergency medical services.

(c) The special license plates issued under this section shall contain the words "California Firefighter" and shall run in a regular numerical series.

(d) In addition to the regular fees for an original registration, a

renewal of registration, or a transfer of registration, the following special license plate fees shall be paid:

(1) A fee of thirty-five dollars ($35) shall be charged for the initial issuance of the special license plates. These license plates shall be permanent and shall not be required to be replaced.

(2) Twenty dollars ($20) for each renewal of registration which includes the continued display of the plates.

(3) If the license plates become damaged or unserviceable, replacement of the plates may be obtained from the department upon proper application and payment of a fee of thirty-five dollars ($35).

(4) A fee of fifteen dollars ($15) shall be charged for the transfer of the license plates to another vehicle qualifying as a vehicle owned by a firefighter who has met the requirements set forth in subdivision (b).

(5) In addition, for the issuance of environmental license plates, as defined in Section 5103, with the special firefighter personal vehicle license plates and distinctive design or decal, the additional fees prescribed in Sections 5106 and 5108. The additional fees collected pursuant to this paragraph shall be deposited in the California Environmental License Plate Fund.

(e) Upon the death of a person issued special license plates pursuant to this section, the plates shall be returned to the department within 60 days after the death of the plateholder or upon the expiration of the vehicle registration, whichever occurs first.

(f) The revenues derived from the additional special fees provided in this section, less costs incurred by the department pursuant to this section shall, prior to January 1, 1996, be deposited in the California Firefighters' Memorial Fund established by Section 18518.2 of the Revenue and Taxation Code. If the California Firefighter's Memorial Fund is not established, then the revenues that would have been deposited in that fund prior to January 1, 1996, pursuant to this subdivision, shall instead be deposited in the California Fire and Arson Training Fund established pursuant to Section 13159.10 of the Health and Safety Code.

(g) Except as provided in paragraph (5) of subdivision (b), the revenues derived from the additional special fees provided in this section, less costs incurred by the department pursuant to this section shall, on and after January 1, 1996, be deposited in the California Fire and Arson Training Fund established by Section 13159.10 of the Health and Safety Code.

CHAPTER 1305

An act to add Section 5080 to the Vehicle Code, relating to vehicles.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 5080 is added to the Vehicle Code, to read:

5080. (a) Any person described in Section 5101 may also apply for a set of special firefighter personal vehicle license plates, and the department shall issue those special license plates in lieu of the regular license plates. The firefighter special vehicle plates shall be issued pursuant to Section 5060. The department shall not approve a design or decal pursuant to Section 5060 that indicates or implies that the owners of the special firefighter personal vehicle license plates are firefighters.

(b) In addition to the regular fees for an original registration, a renewal of registration, or a transfer of registration, the following firefighter personal vehicle 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.

(5) In addition, for the issuance of environmental license plates, as defined in Section 5103, with the special firefighter personal vehicle license plates and distinctive design or decal, the additional fees prescribed in Sections 5106 and 5108. The additional fees collected pursuant to this paragraph shall be deposited in the California Environmental License Plate Fund.

(c) When payment of renewal fees is not required as specified in Section 4000, or when the person determines to retain the firefighter personal vehicle 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.

(d) Except as provided in paragraph (5) of subdivision (b), the revenue derived from the additional special fees provided in this section, less costs incurred by the department pursuant to this section, shall be deposited in the California Fire and Arson Training Fund established by Section 13159.10 of the Health and Safety Code.

(e) The money deposited in the California Fire and Arson Training Fund pursuant to this section is available, upon appropriation by the Legislature, to the Controller for allocation to the State Fire Marshal for the purposes of providing training and

education to employees of state and local fire suppression agencies, as prescribed by regulation of the State Fire Marshal.

(f) All revenues deposited in, and expenditures from, the California Fire and Arson Training Fund pursuant to this section, shall be audited by the Auditor General, or the successor to the Auditor General, in 1995 and 1997, and a copy of the report of those audits shall be submitted to the Legislature on or before December 1, 1995, and on or before December 1, 1997, respectively.

SEC. 2. The Department of Motor Vehicles shall undertake a study to determine whether the issuance of special firefighter personal vehicle license plates pursuant to Section 5080 of the Vehicle Code results in a decreased demand for the issuance of environmental license plates, as defined in Section 5103 of the Vehicle Code. Upon the request of one or more members of the Legislature, the department shall report the results of that study to the Legislature on or before January 1, 1996.

CHAPTER 1306

An act to amend Section 12805.5 of, and to add Sections 12812.5 and 15363.50 to, the Government Code, relating to environmental technologies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. The Legislature hereby finds and declares as follows:

(a) California is a global leader in the development of environmental technologies necessary to comply with state, federal, and international laws to protect the environment.

(b) In 1991, California accounted for 8 percent of the world's trade in environmental technology.

(c) California is home to eight of the nations top 20 environmental consulting and construction businesses, and more than 5,000 smaller firms that produce environmental technologies.

(d) On a global scale, environmental technologies accounted for two hundred seventy billion dollars ($270,000,000,000) in business in 1991, and is projected to grow by twenty-five billion dollars ($25,000,000,000) per year in the next decade.

(e) Environmental technology development and export is an industry that has brought employment and revenue to the state, and increased California's prestige as a leader in developing new industries.

(f) It is the intent of this act to establish the appropriate

mechanisms to preserve and enhance the development of environmental technologies industries in the state.

SEC. 2. Section 12805.5 of the Government Code is amended to read:

12805.5. (a) The Governor, utilizing the staff and resources of state agencies, shall transmit to the Legislature, not later than March 15 of each year, an environmental report designated as the "Environmental Report of the Governor" setting forth all of the following:

(1) A review of environmental developments during the preceding calendar year, including trends in air quality, water quality, solid waste, the generation and disposal of hazardous waste, population growth, the growth in number of vehicles, depletion of natural resources, and other indicators of environmental quality and pollution.

(2) Forecasts of trends in major indicators of environmental quality, resource depletion, and pollution.

(3) Insofar as possible within existing resources, an evaluation of the economic and human health costs of resource depletion, pollution, and changes in environmental quality.

(4) Additional material on the California environment that is pertinent and of interest, with historical analysis and future projections whenever possible.

(5) Summaries of state policies and actions that relate to environmental developments and trends.

(6) A status update on the California Environmental Technology Program established pursuant to Section 12812.5.

(b) In conjunction with the environmental report, the Governor shall present an environmental message reviewing significant environmental achievements of the past year, outlining problem areas, and defining environmental policy, and shall make recommendations as may be appropriate for programs to decrease pollution, improve environmental quality, and protect natural resources.

SEC. 3. Section 12812.5 is added to the Government Code, to read:

12812.5. (a) On or before March 1, 1994, the California Environmental Protection Agency, using existing resources and in consultation with other relevant agencies in state and local government, shall do all of the following:

(1) Establish an environmental technologies clearinghouse, which shall include, but not be limited to, maintaining information on California-based environmental technology companies and information on funding sources for environmental technology endeavors and making this information available to interested parties.

(2) Make available technical assistance within the California Environmental Protection Agency to assist California-based environmental technology companies to improve export

opportunities, and to enhance foreign buyers' awareness of, and access to, environmental technologies and services offered by California-based companies. The technical assistance may include, but is not limited to, organizing and leading trade missions, receiving reverse trade missions, referral services, reviewing project opportunities, and notifying California-based companies of export opportunities and trade shows.

(3) Perform research studies and solicit technical advice to identify international market opportunities for California-based environmental technology companies.

(4) Participate in federally and other non-state funded technical exchange programs, when appropriate, to increase foreign buyers' interest in California's environmental technologies.

(5) Coordinate activities in state government, and with the federal government and other countries' governments, to take advantage of trade promotion and financial assistance opportunities available to California-based environmental technology companies.

(b) The California Environmental Protection Agency shall report annually to the Legislature the status of the California Environmental Technology Program established pursuant to this section through the Environmental Report of the Governor as provided in Section 12805.5.

SEC. 4. Section 15363.50 is added to the Government Code, to read:

15363.50. On or before March 1, 1994, the Trade and Commerce Agency, in cooperation with the California State World Trade Commission, shall require each trade office of the state to disseminate information to interested parties on environmental technologies in order to assist California-based firms to export their technologies or services to international markets.

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 ensure that California remains a leader in the export of environmental technologies, this act must take effect immediately.

CHAPTER 1307

An act to amend Sections 56076, 56331, 56375, 56455, 56827.5, 56837, 56839, and 56852 of, and to add Sections 56133, 56839.1, 57008, and 57092 to, the Government Code, relating to local government agency reorganization.

[Approved by Governor October 11, 1993. Filed with Secretary of State October 11, 1993.]

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

SECTION 1. Section 56076 of the Government Code is amended to read:

56076. "Sphere of influence" means a plan for the probable physical boundaries and service area of a local agency, as determined by the commission.

SEC. 2. Section 56133 is added to the Government Code, to read:

56133. A city or district may provide new or extended services by contract or agreement outside its jurisdictional boundaries only if it first requests and receives written approval from the commission in the affected county. The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries but within its sphere of influence in anticipation of a later change of organization. This section does not apply to contracts or agreements solely involving two or more public agencies. This section does not apply to contracts for the transfer of nonpotable or nontreated water. This section does not apply to contracts or agreements solely involving the provision of surplus water to agricultural lands for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county. This section shall not apply to an extended service that a city or district was providing on January 1, 1993.

SEC. 3. Section 56331 of the Government Code is amended to read:

56331. When appointing a public member pursuant to Sections 56325, 56326, 56329, and 56330, the commission may also appoint one alternate public member who may serve and vote in place of a regular public member who is absent or who disqualifies himself or herself from participating in a meeting of the commission.

If the office of a regular public member becomes vacant, the alternate member may serve and vote in place of the former regular public member until the appointment and qualification of a regular public member to fill the vacancy.

No person appointed as a public member or alternate public member pursuant to this chapter shall be an officer or employee of

the county or any city or district with territory in the county, provided, however, that any officer or employee serving on January 1, 1994, may complete the term for which he or she was appointed.

SEC. 4. Section 56375 of the Government Code is amended to read:

56375. The commission shall have all of the following powers and duties subject to any limitations upon its jurisdiction set forth in this part:

(a) To review and approve or disapprove with or without amendment, wholly, partially, or conditionally, proposals for changes of organization or reorganization. Effective July 1, 1994, the commission may initiate proposals for consolidation of districts, as defined in Section 56036, dissolution, merger, or establishment of a subsidiary district, or a reorganization that includes any of these changes of organization. A commission shall only have the authority to initiate a consolidation of districts, dissolution, merger, establishment of a subsidiary district, or a reorganization that include any of these changes of organization, if that change of organization or reorganization is consistent with a recommendation or conclusion of a study prepared pursuant to Section 56378 or 56425. However, a commission shall not have the power to disapprove an annexation to a city, initiated by resolution, of contiguous territory which the commission finds is either:

(1) Surrounded or substantially surrounded by the city to which the annexation is proposed or by that city and a county boundary or the Pacific Ocean if the territory to be annexed is substantially developed or developing, is not prime agricultural land as defined in Section 56064, is designated for urban growth by the general plan of the annexing city, and is not within the sphere of influence of another city.

(2) Located within an urban service area which has been delineated and adopted by a commission, which is not prime agricultural land, as defined by Section 56064, and is designated for urban growth by the general plan of the annexing city.

As a condition to the annexation of an area, which is surrounded, or substantially surrounded, by the city to which the annexation is proposed, the commission may require, where consistent with the purposes of this division, that the annexation include the entire island of surrounded, or substantially surrounded, territory.

A commission shall not impose any conditions which would directly regulate land use density or intensity, property development, or subdivision requirements. When the development purposes are not made known to the annexing city, the annexation shall be reviewed on the basis of the adopted plans and policies of the annexing city or county. This paragraph does not prohibit a commission from requiring, as a condition to annexation, that a city prezone the territory to be annexed. However, the commission shall not specify how, or in what manner, the territory shall be prezoned.

(b) With regard to a proposal for annexation or detachment of

territory to, or from, a city or district or with regard to a proposal for reorganization which includes annexation or detachment, to determine whether territory proposed for annexation or detachment, as described in its resolution approving the annexation, detachment, or reorganization, is inhabited or uninhabited.

(c) With regard to a proposal for consolidation of two or more cities or districts, to determine which city or district shall be the consolidated, successor city or district.

(d) To approve the annexation to a city after notice and hearing, and authorize the conducting authority to order annexation of the territory without an election, if the commission finds that the territory contained in an annexation proposal meets all of the following requirements:

(1) It does not exceed 75 acres in area, that area constitutes the entire island, and the island does not constitute a part of an unincorporated area which is more than 100 acres in area.

(2) It is surrounded in either of the following ways:

(A) Surrounded, or substantially surrounded, by the city to which annexation is proposed or by the city and a county boundary or the Pacific Ocean.

(B) Surrounded by the city to which annexation is proposed and adjacent cities.

(3) It is substantially developed or developing. The finding required by this subparagraph shall be based upon one or more factors, including, but not limited to, any of the following factors:

(A) The availability of public utility services.

(B) The presence of public improvements.

(C) The presence of physical improvements upon the parcel or parcels within the area.

(4) It is not prime agricultural land, as defined by Section 56064.

(5) It will benefit from the annexation or is receiving benefits from the annexing city.

(e) To approve the annexation of unincorporated, noncontiguous territory, subject to the limitations of Section 56111, located in the same county as that in which the city is located, and which is owned by a city and used for municipal purposes and to authorize the conducting authority to annex the territory without notice and hearing.

(f) Subject to Section 56029, to designate in the resolution making determinations the conducting authority for proceedings.

(g) When a change of organization or a reorganization includes the annexation of inhabited territory to a city and the assessed value of land within the territory equals one-half or more of the assessed value of land within the city, or the number of registered voters residing within the territory equals one-half or more of the number of registered voters residing within the city, to determine as a condition of the proposal that the change of organization or reorganization shall also be subject to confirmation by the voters in an election to be called, held, and conducted within the territory of

the city to which annexation is proposed.

(h) With respect to the incorporation of a new city or the formation of a new special district, to determine the number of registered voters residing within the proposed city or special district. The number of registered voters shall be calculated as of the time of the last report of voter registration by the county clerk to the Secretary of State prior to the date the first signature was affixed to the petition. The executive officer shall notify the petitioners of the number of registered voters resulting from this calculation.

(i) To adopt written procedures for the evaluation of proposals. The commission may adopt standards for any of the factors enumerated in Section 56841. Any standards adopted by the commission shall be written.

(j) To adopt standards and procedures for the evaluation of service plans submitted pursuant to Section 56653 and the initiation of a change of organization or reorganization pursuant to subdivision (a).

(k) To make and enforce regulations for the orderly and fair conduct of hearings by the commission.

(*l*) To incur usual and necessary expenses for the accomplishment of its functions.

(m) To appoint and assign staff personnel and to employ or contract for professional or consulting services to carry out and effect the functions of the commission.

(n) To review the boundaries of the territory involved in any proposal with respect to the definiteness and certainty of those boundaries, the nonconformance of proposed boundaries with lines of assessment or ownership, and other similar matters affecting the proposed boundaries.

(o) To waive the restrictions of Section 56109 if it finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area that would be enclosed by the annexation or incorporation is so located that it cannot reasonably be annexed to another city or incorporated as a new city.

(p) To waive the application of Section 25210.90 or Section 22613 of the Streets and Highways Code if it finds the application would deprive an area of a service needed to ensure the health, safety, or welfare of the residents of the area and if it finds that the waiver would not affect the ability of a city to provide any service. However, within 60 days of the inclusion of the territory within the city, the legislative body may adopt a resolution nullifying the waiver.

(q) If the proposal includes the incorporation of a city, as defined in Section 56043, or the formation of a district, as defined in Section 2215 of the Revenue and Taxation Code, the commission shall determine the property tax revenue to be exchanged by the affected local agencies pursuant to Section 56842.

SEC. 5. Section 56455 of the Government Code is amended to read:

56455. If an independent special district adopts a resolution pursuant to subdivision (a) of Section 56453, it shall immediately forward a copy of the resolution to the executive officer. Upon receipt of those resolutions from a majority of independent special districts within a county, the commission, at its next regular meeting, shall adopt a resolution of intention pursuant to Section 56458.

SEC. 6. Section 56827.5 of the Government Code is amended to read:

56827.5. Notwithstanding Section 56827, the commission shall not approve a proposal for incorporation, consolidation of districts, dissolution, merger, or establishment of a subsidiary district, or a reorganization that includes any of these changes of organization until it has considered any other change of organization which conflicts with the subject proposal and which was submitted to the commission within 60 days of the submission of the subject proposal.

SEC. 7. Section 56837 of the Government Code is amended to read:

56837. (a) If a petition for an annexation, a detachment, or a reorganization consisting solely of annexations or detachments, or both, or the formation of a county service area is signed by all of the owners of land within the affected territory of the proposed change of organization or reorganization, or if a resolution of application by a legislative body of an affected district, affected county, or affected city making a proposal for an annexation or detachment, or for a reorganization consisting solely of annexations or detachments, or both, or the formation of a county service area is accompanied by proof, satisfactory to the commission, that all the owners of land within the affected territory have given their written consent to that change of organization or reorganization, the commission may approve or disapprove the change of organization or reorganization, without notice and hearing by the commission. In those cases, the commission may also approve and authorize the conducting authority to conduct proceedings for the change of organization or reorganization under any of the following conditions:

(1) Without notice and hearing.

(2) Without an election.

(3) Without notice, hearing, or an election.

(b) The executive officer shall give any district or city whose boundaries would be changed by a proposed change of organization or reorganization which could be subject to the provisions of this section mailed notice of the filing of the petition or resolution of application initiating proceedings by the commission. The commission shall not, without the written consent of the district or city whose boundaries would be changed by the proposed change of organization or reorganization, take any further action on the petition or resolution of application for 10 days following that mailing. Upon written demand by an affected district or affected city, filed with the executive officer during that 10-day period, the commission shall make determinations upon the petition or

resolution of application only after notice and hearing on the petition or resolution of application. If no written demand is filed, the commission may make those determinations without notice and hearing. By written consent, which may be filed with the executive officer at any time, a district or city may do any of the following:

(1) Waive the requirement of mailed notice.

(2) Consent to the commission making determinations without notice and hearing.

(3) Waive the requirement of mailed notice and consent to the commission making determinations without notice and hearing.

(c) The commission may waive conducting authority proceedings entirely if all of the following conditions apply:

(1) The subject area is uninhabited.

(2) All the owners of land within the affected territory have given their written consent to the change of organization or reorganization.

(3) All affected agencies that will gain territory as a result of the change of organization or reorganization have consented in writing to a waiver of conducting authority proceedings.

SEC. 7.5. Section 56839 of the Government Code is amended to read:

56839. (a) If a majority of the members of each of the legislative bodies of two or more local agencies adopt substantially similar resolutions of application making proposals either for the consolidation of districts or for the reorganization of all or any part of the districts into a single local agency, the commission shall approve, or conditionally approve, the proposal. The commission shall authorize the board of supervisors to order the consolidation or reorganization without an election, except as otherwise provided in subdivision (b) of Section 57081.

(b) Before ordering any material change in the provisions or the terms and conditions of the consolidation or reorganization, as set forth in the proposals of the local agencies, the commission shall direct the executive officer to give each local agency mailed notice of that change. The commission shall not, without the written consent of all local agencies, take any further action on the consolidation or reorganization for 30 days following that mailing. Upon written demand by any of the districts, filed with the executive officer during that 30-day period, the commission shall make determinations upon the proposals only after notice and hearing proposals. If no written demand is filed, the commission may make those determinations without notice and hearing.

(c) Where the commission has initiated a change of organization or reorganization affecting more than one special district, the commission may utilize and is encouraged to utilize a reorganization committee to review the proposal.

SEC. 8. Section 56839.1 is added to the Government Code, to read:

56839.1. (a) Notwithstanding Sections 57077 and 57087, the

commission shall authorize the conducting authority to order the consolidation of districts, dissolution, merger, or establishment of a subsidiary district, or a reorganization that includes any of these changes of organization without an election, except as otherwise provided in subdivision (b) of Section 57081 and Section 57092.

(b) Notwithstanding subdivision (a), the commission shall not authorize the conducting authority to order a merger or establishment of a subsidiary district without the consent of the affected city.

SEC. 9. Section 56852 of the Government Code is amended to read:

56852. The resolution making determinations shall also do all of the following:

(a) Make any of the findings or determinations authorized or required pursuant to Section 56375.

(b) For any proposal initiated by the commission pursuant to subdivision (a) of Section 56375, make both of the following determinations:

(1) Public service costs of a proposal that the commission is authorizing are likely to be less than or substantially similar to the costs of alternative means of providing the service.

(2) A change or organization or reorganization that is authorized by the commission promotes public access and accountability for community services needs and financial resources.

(c) If applicable, assign a distinctive short-term designation to the affected territory and a description of the territory.

(d) Direct the appropriate conducting authority to initiate proceedings in compliance with the resolution.

SEC. 10. Section 57008 is added to the Government Code, to read:

57008. For any proposal initiated by the commission pursuant to subdivision (a) of Section 56375, the conducting authority shall hold a public hearing in the affected territory.

SEC. 11. Section 57092 is added to the Government Code, to read:

57092. (a) Notwithstanding Sections 57081, 57083, 57087, 57087.5, or 57089, for any proposal that was initiated by the commission pursuant to subdivision (a) of Section 56375, the conducting authority shall order the change of organization or reorganization subject to confirmation by the voters if the conducting authority finds either of the following:

(1) In the case of inhabited territory, that a petition requesting that the proposal be submitted to confirmation by the voters has been signed by either of the following:

(A) At least 10 percent of the number of landowners within any affected district within the affected territory who own at least 10 percent of the assessed value of land within the territory.

(B) At least 10 percent of the voters entitled to vote as a result of residing within, or owning land within, any affected district within the affected territory.

(2) In the case of a landowner-voter district, that the territory is

inhabited and a petition requesting that the proposal be submitted to confirmation by the voters has been signed by at least 10 percent of the number of landowners within any affected district within the affected territory, owning at least 10 percent of the assessed value of land within the territory.

(b) The petition shall be filed with the conducting authority within 30 days after the public hearing required pursuant to this chapter has been held. If a petition has been filed, the conducting authority shall approve the proposal subject to confirmation by the voters.

SEC. 12. 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.

CONCURRENT AND JOINT RESOLUTIONS
AND CONSTITUTIONAL AMENDMENTS

1993–94

REGULAR SESSION

1993 RESOLUTION CHAPTERS

RESOLUTION CHAPTER 1

Assembly Concurrent Resolution No. 1—Relative to the selection of the Legislative Counsel of California.

[Filed with Secretary of State January 5, 1993.]

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

Senate Joint Resolution No. 2—Relative to the United States Base Closure Commission

[Filed with Secretary of State January 21, 1993.]

WHEREAS, Pursuant to the United States Base Closure and Realignment Act, President-Elect Bill Clinton, on or before January 25, 1993, will appoint the eight members of the Base Closure Commission; and

WHEREAS, On March 15, 1993, the United States Secretary of Defense will present recommendations to the commission that certain United States military bases be closed or realigned; and

WHEREAS, On July 1, 1993, after holding public hearings, the commission will transmit its recommendations to President Clinton; and

WHEREAS, The Base Closure Commission has to date recommended an inordinately large number of California military bases for closure or realignment and that, as a result, California has already suffered over 50 percent of the combined military and civilian jobs slated to be lost nationally through base closures; and

WHEREAS, The current eight-member panel has members from New York, Illinois, New Jersey, and Maryland, but no one from California; and

WHEREAS, Seven percent of California's economy is currently directly related to defense spending and five percent of California's work force has direct or indirect ties to defense spending; and

WHEREAS, The State of California, in large part due to recent military base closings, is currently experiencing its most severe economic crisis since the Great Depression; and

WHEREAS, Any additional California military base closings will only further compound the state's economic difficulties and will strip California of even more jobs in this time of mounting unemployment; and

WHEREAS, California's bases, in addition to providing critical

jobs, are in close proximity to excellent technological and educational centers; and

WHEREAS, California's bases are of strategic importance in that they ensure a strong military presence on the West Coast and provide mobile military personnel and equipment capable of rapid deployment virtually anywhere throughout the world; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature respectfully memorializes the President to appoint, on or before January 25, 1993, new members to the Base Closure Commission who represent California to ensure that California is adequately represented on the Base Closure Commission; and be it further

Resolved, That the Secretary of the Senate promptly transmit a copy of this resolution to President-Elect Bill Clinton.

RESOLUTION CHAPTER 3

Assembly Concurrent Resolution No. 2—Relative to the California Commission on African-American Males.

[Filed with Secretary of State February 16, 1993.]

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 state's 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 and 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 21 members, with seven members to be appointed by the Speaker of the Assembly, seven members to be appointed by the Senate Committee on Rules, and seven 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, professionals in the fields of criminal justice, health and social services, education, employment, and economic empowerment, and the media.

State officers or employees may be appointed to the commission.

(b) The initial appointments to the commission shall be made not later than April 1, 1993.

(c) Whenever an appointment to the commission is not made by April 1, 1993, 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 10 members, except that none of these 10 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.

This measure shall be implemented to the extent that private funds are made available to the commission for the purpose of this measure for all program and administrative costs related to implementation and no state funds shall be used to implement this measure, except that the Legislature may provide existing staffing assistance and resources to the commission; 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 seven targeted areas listed in paragraph (b).

(b) Conduct research to determine the nature and extent of the problems concerning African-American males in seven targeted areas: unemployment, education, criminal justice, social services, health, economic empowerment, and media.

(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 and the Governor, upon request, commencing January 31, 1994, and annually thereafter; and be it further

Resolved, That the commission shall be terminated on January 31, 1995, unless a later adopted concurrent resolution, which is chaptered before that date, deletes or extends the date.

RESOLUTION CHAPTER 4

Assembly Concurrent Resolution No. 18—Relative to proclaiming Black History Month.

[Filed with Secretary of State February 16, 1993.]

WHEREAS, Americans of African descent helped develop our nation in countless ways, those recognized, unrecognized, and unrecorded; and

WHEREAS, The contributions of Black American citizens as scientists, inventors, educators, farmers, homemakers, and explorers of earth and sky have been recognized annually during Black History Month; and

WHEREAS, The history and contributions of Black American citizens were consistently overlooked and undervalued in the curriculum of public education institutions prior to the Civil Rights Act of 1964; and

WHEREAS, Carter Goodwin Woodson, a Black historian,

recognized these accomplishments and, on February 7, 1926, created 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, "Negro History Week" was expanded to "Black History Month"; and

WHEREAS, Innumerable Black citizens have contributed to the history of California, including the first Black citizen elected to the California Legislature, former Assembly Member Frederick Roberts, who served his constituents from 1918 to 1934; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the month of February 1993 be proclaimed as Black History Month; and be it further

Resolved, That each legislative body commemorate Black History Month with appropriate, meaningful activities that recognize the contributions of Black Americans to their community, state, and nation; and be it further

Resolved, That the Chief Clerk of the Assembly prepare suitably prepared copies of this resolution for appropriate distribution.

RESOLUTION CHAPTER 5

Assembly Joint Resolution No. 13—Relative to Los Angeles Air Force Base.

[Filed with Secretary of State March 9, 1993.]

WHEREAS, The Space and Missile Systems Center at Los Angeles Air Force Base is a unique, successful military installation and a valuable resource to the people of Los Angeles; and

WHEREAS, The mission of the Space and Missile Systems Center at Los Angeles Air Force Base revolves around the procurement, development, and testing of satellites and launch vehicles; and

WHEREAS, The space arm of the military is the only part of the defense budget not in decline; and

WHEREAS, Closing the Space and Missile Systems Center and Los Angeles Air Force Base would result in the loss of up to 80,000 jobs; and

WHEREAS, The connection between Los Angeles Air Force Base, the aerospace industry as a whole, and California's recent economic troubles cannot be overlooked. Nationally, aerospace employment represents about 2 percent of total United States employment and less than 9 percent of all manufacturing employment. About one-quarter of all aerospace employment is in California, representing 4 percent of the state's total employment, but a significant 21 percent of the state's manufacturing jobs. Most of the country's major aerospace corporations are located in California, and

in Los Angeles, aerospace accounts for over 26 percent of all manufacturing employees who work in the county; and

WHEREAS, The recent recession and scaled back defense spending policies have hit California especially hard. Aerospace employment declined 14 percent following the peak year of 1987, when it accounted for nearly 500,000 jobs, and in Los Angeles, the losses were significantly greater, at 20.3 percent. Not only is aerospace more important to Los Angeles, but the losses over the past several years have been much more dramatic. When expressed as a percentage of manufacturing, aerospace employment is three times as important to Los Angeles as a whole. When combined with an aerospace employment decline that was, in percentage terms, twice as large, the relative effect of the Los Angeles aerospace declines has been six times as great as that in the rest of the country; and

WHEREAS, The base's economic impact to the state was worth $9.4 billion in 1991, and the economic impact within Los Angeles County was $5.4 billion. Shutting down the base will cost over 8,000 jobs immediately and approximately 70,000 shortly thereafter, because, if the base leaves, there is no reason for the aerospace industry to stay. The loss of those jobs will result in a loss of $1.2 billion in purchasing power in and around the South Bay area of Los Angeles alone; and

WHEREAS, Even if the Base Closure Commission decides to leave Los Angeles Air Force Base open, southern California is still expected to lose between 200,000 and 375,000 aerospace jobs by 1995. Shutting down Los Angeles Air Force Base would add another 80,000 jobs to that total; and

WHEREAS, Closing down Los Angeles Air Force Base is not part of the peace dividend. Closing the gates in Los Angeles will not reduce the mission of the Space and Missile Systems Center; it will only move that mission and those jobs to a state that has not experienced the severity of aerospace job losses that California has undergone; and

WHEREAS, The federal Base Closure Commission still does not have a California representative on it; 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 keep Los Angeles Air Force Base off the list of planned base closures for 1993 and 1995; 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 Defense, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 6

Assembly Joint Resolution No. 15—Relative to March Air Force Base.

[Filed with Secretary of State March 12, 1993.]

WHEREAS, March Air Force Base has a long and distinguished record of military service which is well documented in the annals of United States Air Force history; and

WHEREAS, March Air Force Base, originally called Alessandro Aviation Field, opened on March 1, 1918. It was then renamed March Field in honor of Lieutenant Peyton C. March, who died in an aircraft accident the previous month; and

WHEREAS, Used initially during World War I to train pilots, March Air Force Base has served as a primary flying and antiaircraft training school, tactical bomber and pursuit training base, and aircraft test base, as well as a key installation of the former Strategic Air Command. Many aviation pioneers either served or trained at March Air Force Base, including General Jimmy Doolittle, General Henry "Hap" Arnold, General Carl "Tooey" Spaatz, and General Curtis Lemay; and

WHEREAS, In 1931, March Field then included the Headquarters, 1st Wing, 17th Pursuit Group, and the 19th Bombardment Group. The 9th and 31st Bomb Squadrons were also reactivated and assigned to March Field in July of that year; and

WHEREAS, In 1938, March Field became the central base for west coast bombing and gunnery training and, in 1940, the National Guards from California and Illinois were assigned to March Field to train in antiaircraft protection; and

WHEREAS, In 1941, tests were conducted at March Field that proved that jet-assisted takeoffs were feasible. In 1942, liquid rockets were successfully used to assist A-20's on takeoff, paving the way for the jet age; and

WHEREAS, As the United States entered World War II in 1941, March Field provided training for many soon-to-be-famous air and bombardment crews. During the height of the war, the base supported almost 75,000 troops; and

WHEREAS, Following the war, March Field retained its role as an operational fighter base until the Strategic Air Command took over control in 1949. The 22nd Bombardment Wing was assigned to March Air Force Base as the senior host tactical unit and, at that same time, the 15th Air Force, which is Air Force Headquarters for the Western United States, was transferred from Colorado Springs, Colorado, to March Air Force Base; and

WHEREAS, From 1949 through 1953, March Air Force Base's B-29 Superfortresses saw action in the Korean War. During a brief four-month period, they contributed to the elimination of all strategic enemy targets; and

WHEREAS, In 1963, March Air Force Base began a new era as eight global-range B-52 Stratofortresses arrived for duty. The base received its first KC-135 Stratotanker in support of its refueling missions to begin the following month. The B-52s also served in the Strategic Alert operation which represented the United States' primary defense against potential Cold War attacks; and

WHEREAS, In the Vietnam War, the 22nd Bombardment Wing flew hundreds of missions over Southeast Asia, including the famous Young Tiger, Rolling Thunder, Arc Light, and Linebacker II operations. Throughout the years of the conflict, March Air Force Base also served as a logistical springboard for the supplies and equipment en route to the Pacific. As the war drew to a close, the base operated as one of the many reception centers for returning prisoners of war; and

WHEREAS, In early 1976, March Air Force Base turned over a large area in western March Air Force Base to the Veterans Administration to be used as a Veterans Administration National Cemetery. The site, Riverside National Cemetery, officially opened on November 11, 1978. Also in 1976, the first Air Force Reserve unit to become part of the Strategic Air Command's tanker force, the 452nd Air Refueling Wing, was transferred to March Air Force Base; and

WHEREAS, In 1982, as the B-52s were retired, the 22nd Air Refueling Wing embarked on yet another era with the delivery of the wide-bodied KC-10A Extender. The 22nd Air Refueling Wing, which conducts worldwide aerial refueling and airlift missions, represents the only such unit of the newly activated Air Mobility Command in the Western United States; and

WHEREAS, In 1989, March Air Force Base crews flew numerous critical missions in support of Operation Just Cause, the successful Panamanian operation that ousted General Manuel Noriega; and

WHEREAS, In 1990 through 1991, March Air Force Base performed a vital role in the Desert Shield and Desert Storm operations. The massive KC-10s importance became particularly apparent as it provided the "aerial bridge" necessary to deploy the thousands of troops and military equipment. The extensive training sorties involving the F117 Stealth fighter paid dividends as March Air Force Base crews transported the Stealth fighter for the first time on a major tactical air deployment. The KC-10 clearly played an invaluable role in the Gulf War victory; and

WHEREAS, In December of 1992, March Air Force Base became the primary western port of departure for marines headed to Somalia in support of Operation Restore Hope. KC-10s from March Air Force Base and other Air Mobility Command bases have flown over 200 missions departures, loaded and deployed more than 12.2 million pounds of cargo, deployed over 9,000 passengers, and delivered more than 4 million gallons of fuel to United States Air Force aircraft; and

WHEREAS, Thousands of retired military and civilian personnel reside within one hour of March Air Force Base, utilizing the hospital

and facilities. Many of these retirees are active in civic and community groups that support March Air Force Base, including the Riverside and Moreno Valley Chambers of Commerce, the Silver Eagles, and the local Air Force Association chapter; and

WHEREAS, The March Field Museum is one of the largest Air Force museums in the nation with 53 different aircraft on display. Over 70,000 visitors pass through the museum each year, viewing the base's history and one of the largest collections of World War II memorabilia. The museum is currently in the process of expanding and expects double the number of tourists it receives each year; and

WHEREAS, Air Force Village West, a 153-acre retirement community for retired military officers, lies adjacent to March Air Force Base. The community provides our retired officers and their spouses with a skilled nursing facility, 24-hour security, and health care facilities; and

WHEREAS, March Air Force Base, the oldest Air Force base on the west coast and third oldest in the United States, spans over 7,000 acres and employs more than 6,000 military and civilian personnel and is a vital economic cornerstone in Riverside County providing some 13,000 jobs and over $1.5 billion in payroll and purchases each year. The base is strategically located in the southwest corner of the United States, poised to fly critical air refueling and air mobility missions in support of our nation's efforts throughout the Pacific and Latin America; and

WHEREAS, March Air Force Base is clearly one of the most vital national defense installations in the United States and is celebrating its 75th year of distinguished service in 1993; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the California State Legislature declares the month of March 1993 to be "March Air Force Base Month" and hereby appeals to President Clinton and the Defense Base Closure and Realignment Commission to retain March Air Force Base as a fully operational active duty military base; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the 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 7

Assembly Joint Resolution No. 23—Relative to California military bases.

[Filed with Secretary of State March 12, 1993.]

WHEREAS, A proposed list of United States military base closures for fiscal year 1994, devised by the Department of Defense under the

previous administration, and inherited by the current administration of President Clinton, has been informally released and will be formally released on March 15, 1993; and

WHEREAS, This list comprises 29 proposed base closures, 11 of which are in California at an estimated cost of 85,000 military and civilian on-base jobs, using 1991 Department of Defense figures, plus an estimated 220,000 off-base jobs that depend on business generated by base personnel and contracts; and

WHEREAS, The consequences of these proposed base closures affect California disproportionately and adversely at a time when California suffers the nation's highest unemployment level, assessed at 9.7 percent by the Employment Development Department; and

WHEREAS, New job losses from proposed base closures would be devastating in California counties such as Alameda County, Los Angeles County, Orange County, Contra Costa County, Sacramento County, and Riverside County, where the bases are located, and in surrounding counties as well; and

WHEREAS, California counties are making timely efforts to devise and implement conversion strategies for threatened industries; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature urgently requests President Clinton to review and revise the Department of Defense list of proposed base closures for fiscal year 1994 to ensure that recommendations concerning California are in accord with the administration's stated goal of reviving the state's economy, which is the underpinning of the nation's economy; and be it further

Resolved, That the Legislature urges President Clinton to reconsider base closures in states that have an unemployment rate of 9 percent or higher; and be it further

Resolved, That the Legislature requests President Clinton to delay official release of the proposed base closure list for 30 days beyond the March 15, 1993, release date presently scheduled to ensure adequate time for the Secretary and Undersecretary of Defense to review the proposed base closure list and assess its cumulative impact on the California economy as well as the national economy; 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 8

Assembly Joint Resolution No. 2—Relative to Operation Restore Hope.

[Filed with Secretary of State March 15, 1993.]

WHEREAS, On December 5, 1992, then President Bush announced that the United Nations Security Council, by unanimous vote, had welcomed the offer of the United States to lead a coalition to get food through to Somalia; and

WHEREAS, President Bush promptly ordered that a substantial American force be sent to Somalia under the name of "Operation Restore Hope"; and

WHEREAS, The United States Air Force, Army, Marine Corps, and Navy, as well as National Guard and reserve units, are carrying out Operation Restore Hope; and

WHEREAS, California-based units involved in Operation Restore Hope include all of the following: the 452nd Air Refueling Wing, United States Air Force Reserve, March Air Force Base; the 940th Air Refueling Group, United States Air Force Reserve, Mather Air Force Base; the 349th Airlift Wing, United States Air Force Reserve, Travis Air Force Base; the 445th Airlift Wing, United States Air Force Reserve, Norton Air Force Base; the 1st Marine Expeditionary Force, Camp Pendleton; Naval Mobile Construction Battalion 40, United States Navy, Port Hueneme Naval Construction Battalion Center; Naval Beach Group 1, United States Navy, Coronado Naval Amphibious Base; the 60th Airlift Wing, United States Air Force, Travis Air Force Base; and the 63rd Airlift Wing, United States Air Force, Norton Air Force Base; and

WHEREAS, Operation Restore Hope will create a secure environment in the hardest-hit parts of Somalia to enable food to move from the relief ships to the people in the countryside who have been devastated by starvation until now; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California recognizes and honors President George Bush, the men and women of our Armed Forces, and the allies of the United States for their humanitarian mission in Somalia; and be it further

Resolved, That the Legislature acknowledges and applauds each Californian who has served in the gallant and magnanimous effort known as Operation Restore Hope; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to President George Bush, to the current President and the Vice President of 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 each military installation named within the text of this resolution.

RESOLUTION CHAPTER 9

Senate Concurrent Resolution No. 5—Relative to the Ramona Pageant.

[Filed with Secretary of State March 19, 1993.]

WHEREAS, The Ramona Pageant, the longest continuously running outdoor theatrical production in the United States, is celebrating its 70th Anniversary in 1993; and

WHEREAS, Since 1923, The Ramona Pageant Association, Inc., a California nonprofit public benefit corporation, and the citizens of the communities of Hemet and San Jacinto in Riverside County have annually presented this historical drama based on the 1884 Helen Hunt Jackson novel, *Ramona*, to over two million play attendees; and

WHEREAS, The Ramona Pageant has a cast of nearly 375, the largest cast of any outdoor play in the United States, and is acclaimed for its superb acting, setting, and volunteerism; and

WHEREAS, There have been at least eight other stage plays of Ramona, none of which have survived, five movies made of the story, and a song written about it; and

WHEREAS, The Helen Hunt Jackson book *Ramona* has never been out of print since it was published in 1884, an exception in novels, and *Ramona* was required reading in California schools for many years as a tool for teaching the history of the ethnic groups and their contribution to California history; and

WHEREAS, The Pasadena Playhouse is the "State Playhouse" but there is no designated state play; and

WHEREAS, Well-known individuals who have appeared in the Ramona Pageant include Racquel Welch, Anne Archer, Victor Jory, Jean Innes, and Jeff Meek; and

WHEREAS, Garnet Holme, playwright and original director of the Ramona Pageant, was named Pageant Master for our National Parks and also wrote and directed the "Bracebridge Dinner" at Yosemite National Park; and

WHEREAS, Many of the Governors of the State of California have attended and enjoyed this famous event; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Ramona Pageant is hereby designated as the California State Outdoor Play; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Ramona Pageant Association, Inc.

RESOLUTION CHAPTER 10

Senate Joint Resolution No. 9—Relative to California military bases.

[Filed with Secretary of State March 19, 1993.]

WHEREAS, California military installations have a long and distinguished record of military service that is well documented in the annals of Armed Forces history; and

WHEREAS, California military bases are of strategic importance in that they ensure a strong military presence on the west coast and provide military personnel and equipment capable of rapid deployment to the Pacific Ocean and beyond; and

WHEREAS, Pursuant to the United States Base Closure and Realignment Act, the United States Secretary of Defense on March 15, 1993, will present recommendations to the Base Closure Commission that certain United States military bases be closed or realigned; and

WHEREAS, The Base Closure Commission has to date recommended an inordinately large number of California military bases for closure or realignment and that, as a result, California has already suffered over 50 percent of the combined military and civilian jobs slated to be lost nationally through base closures; and

WHEREAS, California bases that are closed or closing include Sacramento Army Depot, Mather Air Force Base, Hamilton Army Air Field, the Presidio of San Francisco, Hunter's Point Naval Annex, Moffett Field Naval Air Station, Castle Air Force Base, Fort Ord Army Base, George Air Force Base, Norton Air Force Base, Long Beach Naval Station, Tustin Marine Air Station, and Salton Sea Navy Base; and

WHEREAS, Additional California bases that may be closed include McClellan Air Force Base, Mare Island Naval Shipyard, Oakland Navy Supply Center, Treasure Island Naval Station, Alameda Naval Air Station, the Monterey Presidio, Long Beach Naval Shipyard, El Toro Marine Air Station, and March Air Force Base; and

WHEREAS, The State of California, in large part due to previous defense cuts, is currently experiencing its most severe economic crisis since the Great Depression; and

WHEREAS, The closure of additional California military bases will have a profound adverse impact on California's already-troubled economy and will strip the state of more jobs in this time of mounting unemployment; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature respectfully memorializes the President of the United States and the United States Secretary of Defense to postpone closure of any additional California military bases until the full impact of the economic upheaval can be assessed; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President of the United States, to Secretary of Defense Les Aspin, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 11

Assembly Joint Resolution No. 8—Relative to immigrants.

[Filed with Secretary of State March 19, 1993.]

WHEREAS, Immigration to the United States of America, primarily people from Europe, in search of religious, political, social, and economic freedom, has been constant since the late 17th Century; and

WHEREAS, These same forces currently impel the newest wave of immigrants from Mexico, Central and South America, Europe, and Asia; and

WHEREAS, Although the East Coast was once the bustling geographic center of United States immigration, California has now become the major entry port for immigrants from throughout the world venturing to America in search of a better life; and

WHEREAS, Immigrants contribute to the richness of American life and mightily to the economy, by paying millions annually in taxes, by filling jobs that help keep domestic industry competitive, and by revitalizing once-decaying communities; and

WHEREAS, No American can ignore the great benefits, energy, and creativity that these immigrants bring to California and the rest of the nation; and

WHEREAS, In recent years, California has received more documented immigrants than any other state in the nation. Since 1980, California received nearly one-third of all legal immigrants, over four times more than Texas, the state with the second highest number; and

WHEREAS, There are approximately 1.3 million undocumented immigrants, representing countries throughout the world, living in California, more than one-half of all undocumented immigrants living in the United States, and nearly 100,000 more undocumented immigrants enter California each year; and

WHEREAS, California is spending $4.8 billion a year for immigration-related services, including $1.7 billion for services related to the undocumented; and

WHEREAS, Since documented and undocumented immigrants and their children born in the United States enter our state and country as a result of national policy decisions and federal action, and since judicial decisions mandate the provision of service to immigrants regardless of status, the federal government clearly has

a responsibility to assist states and local communities in the provision of these mandated services; and

WHEREAS, Acting in good faith under the law, California has provided services of health care, education, job training, and public assistance for this new population, despite the failure of the federal government to reimburse California in needed amounts, as promised and provided for under federal law; and

WHEREAS, California is still mired in a deep recession and is reeling from catastrophic natural disasters and a multiyear fiscal crisis and can ill-afford to continue funding federal obligations at the expense of critical state and local programs; 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 Congress of the United States to assume responsibility for $1.5 billion of the cost impact of its immigration and refugee policy on California's taxpayers and treasury; and be it further

Resolved, That California has shouldered these burdensome immigration costs with little assistance from the federal administration, and therefore the people of California rightfully and optimistically look toward our new administration for the financial resources owed to meet these federal programs mandated upon 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, the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 12

Assembly Concurrent Resolution No. 32—Relative to designating March 21 through 27, 1993, as Mediation Week.

[Filed with Secretary of State March 22, 1993.]

WHEREAS, The legal needs of our society have increased dramatically; and

WHEREAS, In an effort to ameliorate these conditions, restore harmony, improve relations between citizens and within neighborhoods and families, and relieve the growing burden on our judiciary, many of our citizens have turned to dispute resolution services, with resultant social and economic benefits; and

WHEREAS, Mediation, which provides parties with a simplified and economical procedure for obtaining prompt and equitable resolution of their disputes and a greater opportunity to participate directly in resolving of their disputes, has proven over the years to

be one of the most effective of these Alternative Dispute Resolution (ADR) techniques; and

WHEREAS, California has had mandatory mediation of child custody and visitation disputes since 1981, and evaluations of these programs have found that mediation has resulted in the resolution of over two-thirds of the mediated disputes and achieved a high satisfaction rate among the participants; and

WHEREAS, Studies by the Rand Corporation and others show that the use of mediation and other appropriate ADR processes can reduce the time, cost, and stress of resolving disputes in many cases, both to disputants, by reducing costs for such things as expert witnesses and trial preparation, and to the justice system as a whole by as much three-fold to five-fold over the cost of traditional court processing of civil cases; and

WHEREAS, The State Bar of California and many local bar associations are engaged in promoting the use of mediation and raising public consciousness about its merits, and are seeking to increase public use of and support for alternative dispute resolution applications; and, to that end, are cooperating in many activities to assist counties and dispute resolution providers in their efforts at serving citizens; and

WHEREAS, The State of California now has thousands of citizens trained as mediators and many agencies, organizations, and attorneys who specialize in providing related services and ready assistance to those in need of services; now therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby designates the week of March 21 through 27, 1993, as Mediation Week, in order to afford an opportunity for the citizens of California to become aware of the availability of mediation and other ADR techniques as options for solving their legal problems, and to express sincere appreciation to our citizens who are working diligently in assisting fellow citizens and businesses in the resolution of conflict and the settlement of disputes; 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 13

Assembly Concurrent Resolution No. 13—Relative to Adult Education Week.

[Filed with Secretary of State March 23, 1993.]

WHEREAS, The mission of adult education in California's public schools 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, 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, More than 2,000,000 adults and 270,000 youth are served each year by adult education programs in 230 school districts throughout the state; and

WHEREAS, Adult education in the public schools has a 135-year history of being the primary educational provider for immigrant and minority adults seeking to become more productive members of a new society; and

WHEREAS, Adult education in public schools contributes significantly to the reduction of vandalism and other crimes by providing day and evening, academic and vocational training programs; and

WHEREAS, Every year more than 500,000 immigrants from numerous countries use adult education classes to learn the English language and to gain an understanding of the political, economic, and social systems that direct our democratic form of government; and

WHEREAS, Adult education is the segment of public education assigned the historic mission of serving disadvantaged adults seeking to become 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, During the last 10 years, more than 2,300,000 adult education students in California obtained job skills by attending public adult education vocational training programs offered by public schools; and

WHEREAS, More than 906,000 adults with physical and mental disabilities obtained job skills training and basic education in classes for developmentally disabled adults offered by adult education in public schools between 1980 and 1992; and

WHEREAS, Adult education in public schools is only 3 percent of the total public school budget for kindergarten, and grades 1 to 12, inclusive, the same as it has been for over 60 years, and only 0.07 percent of the total public education budget, including postsecondary institutions; and

WHEREAS, Adult education in public schools has a 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 adult education in public schools by finding and declaring in Section 8500 of the Education Code "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"; 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 21 through 27, 1993, as Adult Education Week, to afford 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 14

Senate Concurrent Resolution No. 3—Relative to Mathematics and Science Education Month.

[Filed with Secretary of State March 31, 1993.]

WHEREAS, One of the national education goals for America 2000 is for United States pupils to be first in the world in science and mathematics achievement; and

WHEREAS, The California Coalition for Mathematics is an alliance of leaders working to restructure and strengthen mathematics education; and

WHEREAS, There is both a need and the potential for improvement in mathematics and science learning for all pupils; and

WHEREAS, The language and process of mathematics are basic not only to science, but to all other disciplines; and

WHEREAS, Increased mathematical understanding is within the reach of all pupils, and mathematical literacy is essential for individuals to function in society; and

WHEREAS, The diversity of the population challenges professional educators to capitalize on the potential of underserved groups; and

WHEREAS, In order to meet the challenge of a technological present and future, competent, motivated, and intellectually prepared pupils must have access to a variety of technology; and

WHEREAS, A climate of change and standards for excellence can only be achieved when the educational establishment, general community, and businesses collaborate to meet the demand for a state of problem-solving pupils who can analyze and manage

complex social, economic, and scientific issues; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the state proclaims each April, until and including April of the year 2000, as Mathematics and Science Education Month to recognize that a complete mathematics education for all pupils is essential to our state and nation.

RESOLUTION CHAPTER 15

Assembly Concurrent Resolution No. 26—Relative to California's missing children.

[Filed with Secretary of State April 12, 1993.]

WHEREAS, The plight of California's missing children has become a societal dilemma that each of us shares; and

WHEREAS, More than 78,000 California children will turn up missing each year; and

WHEREAS, By the end of 1992, there remained 1,408 active missing children files with the California Attorney General's office; and

WHEREAS, While missing children include those who are abducted by estranged family members and strangers, they also include lost children, throwaways, and runaways; and

WHEREAS, Each year more families are forced to live their lives while a beloved child is lost or missing; and

WHEREAS, The names of Alisa Aftias, Jose Bautista, Amanda Campbell, Kevin Collins, Jaycee Lee Dugard, Rasheeyda Wilson, and countless other California children, are remembered each night by their families; and

WHEREAS, We must all work toward heightened awareness, because one person may hold the key to finding a missing child; and

WHEREAS, The sharing of information on missing children may help enhance the possibility of recovering California's missing children; and

WHEREAS, If there is to be an end to the plight of missing children, then it must start with us in government; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature commits itself to the pursuit of policies that will protect children and punish those who harm them; and be it further

Resolved, That this Legislature condemns any crimes against children causing emotional or physical abuse or death; and be it further

Resolved, That this Legislature, sharing a common concern for children, hereby proclaims April 11, 1993, through April 17, 1993, as

California Missing Children's Week; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor and to each county board of supervisors and each city council in the state.

RESOLUTION CHAPTER 16

Senate Concurrent Resolution No. 2—Relative to the creation of the Joint Committee on School Facilities.

[Filed with Secretary of State April 19, 1993.]

WHEREAS, The Department of Finance estimates that over 1.15 million new pupils will enter the public school system in kindergarten and grades 1 to 12, inclusive, by the 1995–96 school year, 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 State School Building 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 upgrade 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 ongoing 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 five Members of the Senate, appointed by the Senate Committee on Rules, and five 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 Senate Operating Fund 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, 1995, at which time the committee's existence shall terminate.

RESOLUTION CHAPTER 17

Assembly Joint Resolution No. 5—Relative to the 1990 Census.

[Filed with Secretary of State April 19, 1993.]

WHEREAS, According to data collected during a Post Enumeration Survey (PES) of the 1990 census coverage, the population of many major urban areas of the nation was undercounted; and

WHEREAS, In California, the PES data indicates the population of urban areas was significantly undercounted by nearly one million persons including, but not limited to, the population of the Cities of Fremont, Fresno, Fullerton, Glendale, Huntington Beach, Inglewood, Long Beach, Los Angeles, Modesto, Oakland, Oxnard, Pasadena, Riverside, Sacramento, Salinas, San Bernardino, San

Diego, San Jose, Santa Ana, Stockton, and Vallejo; the Counties of Alameda, Butte, Contra Costa, Fresno, Humboldt, Imperial, Kern, Los Angeles, and Merced; and the City and County of San Francisco; and

WHEREAS, On July 15, 1991, the decision was made by former Secretary of Commerce Robert Mosbacher not to adjust the 1990 census data, regardless of the failure of the census to count an estimated 5.3 million people nationwide; and

WHEREAS, Subsequently, the Committee on Adjustment of Postcensal Estimates of the Bureau of the Census determined through exhaustive research that adjustment of intercensal population estimates would improve the accuracy of those estimates; and

WHEREAS, Intercensal estimates are not prepared for census tracts and blocks, or used for redistricting, but instead are produced by the Bureau of the Census for use in allocating federal formula program funds to states, counties, and cities, and as the determinant of the volume cap for tax-exempt private activity bonds issued within a state; and

WHEREAS, Due to the use of unadjusted population estimates, the State of California and its largest cities and counties will not receive a fair and equitable share of federal formula program funds, resulting in the loss of up to $150,000,000 to the City of Los Angeles alone; and

WHEREAS, On January 4, 1993, the Director of the Census announced her decision not to adjust intercensal population estimates to correct for the undercount of population; 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 Secretary of Commerce to reverse the decision of the Director of the Census, and to direct the Bureau of the Census to adjust the intercensal population estimates, consistent with the Post Enumeration Survey data, using the most appropriate statistical methodology; 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 18

Assembly Concurrent Resolution No. 15—Relative to California Holocaust Memorial Week.

[Filed with Secretary of State April 19, 1993.]

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 known as "The Final Solution of the Jewish Question"; and

WHEREAS, The Holocaust 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, 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 18 through April 25, 1993, as Holocaust Memorial Week-Days of Remembrance for Victims of the Holocaust; and

WHEREAS, April 18, 1993, 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 18 through April 25, 1993, 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 19

Assembly Concurrent Resolution No. 17—Relative to proclaiming Southeast Asia Genocide Remembrance Week.

[Filed with Secretary of State April 19, 1993.]

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 State 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 25 through May 1, 1993, 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 20

Assembly Concurrent Resolution No. 36—Relative to the Civilian Conservation Corps.

[Filed with Secretary of State April 19, 1993.]

WHEREAS, On March 31, 1933, President Franklin D. Roosevelt signed legislation establishing the Civilian Conservation Corps to reduce unemployment through performance of useful public works; and

WHEREAS, The State of California was one of the largest benefactors of the Civilian Conservation Corps program that provided employment in the state for over 166,000 young people each year from 1933 to 1942, inclusive; and

WHEREAS, Many of the original buildings, bridges, rock

architecture, park trails, park facilities, reservoirs, and other projects completed by the Civilian Conservation Corps are still in existence and serving the people of California; and

WHEREAS, The values and discipline instilled through the Civilian Conservation Corps allowed the people of California and the United States to innovatively implement the largest conservation and natural resource revitalization program in the history of the country; and

WHEREAS, Approximately 75 percent of the three million enrollees and 50,000 of the military officers in the Civilian Conservation Corps fought for freedom in World War II; and

WHEREAS, The Civilian Conservation Corps has become the public service role model for the California Conservation Corps; and

WHEREAS, The many accomplishments of the youths who participate in the California Conservation Corps are matters of public record; 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, on the occasion of the 60th anniversary of the founding of the Civilian Conservation Corps, declares the week of April 18, 1993, to April 24, 1993, inclusive, as Civilian Conservation Corps Week in tribute to those who have served in this esteemed organization.

RESOLUTION CHAPTER 21

Assembly Concurrent Resolution No. 38—Relative to the National Girls Initiative.

[Filed with Secretary of State April 29, 1993.]

WHEREAS, Recent studies show that while most girls feel confident in themselves at the age of nine years, more than two-thirds of them have lost this confidence by the time they reach high school; and

WHEREAS, This lack of self-esteem is evidenced in disturbing new statistics: serious eating disorders are appearing in girls as young as 11 years; over one million girls between the ages of 12 and 19 years become pregnant each year; adolescent depression is twice as likely to occur in girls than boys, causing one out of five girls to attempt suicide before the age of 20 years; and

WHEREAS, Research indicates that a girl's confidence level during her teen years impacts her adulthood: girls enter mathematics and science fields far less frequently than boys do, not only because girls receive less encouragement from educators in these areas but because they tend to view mathematics incompetence as personal failure; and

WHEREAS, Research shows that the presence of a caring adult

role model is critical to the development of a confident and competent girl; and

WHEREAS, Public awareness of the need for this mentoring is crucial not only to the well-being of girls but to the economic health of our country; and

WHEREAS, Statistics show that in the 21st century most new positions in the work force will be filled by women, and it is in our national interest to invest in today's girls, because our economic future depends on tomorrow's women; and

WHEREAS, In response to these findings, the Ms. Foundation created the National Girls Initiative-Take Our Daughters To Work Day to make girls visible, valuable, and heard; and

WHEREAS, The California Cable Television Association and the LIFETIME Television cable network are actively supporting and taking the electronic media lead in this regard; and

WHEREAS, The Take Our Daughters To Work program is the public education component of this initiative, and will set up an environment in which the public, the media, employers, teachers, and parents can acknowledge girls' intelligence and desire for information, and will allow girls, in the company of a caring adult, to talk with employers about both the gains made by the movements for women's equality and civil rights, and the challenges that lie ahead to diversify the work force; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby proclaims Wednesday, April 28, 1993, as "Take Our Daughters To Work Day," when mothers, fathers, friends, and relatives are encouraged to take girls ages nine to 15 years to work with them for a day as a means to spark their vision about their own future in the work force, 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 22

Assembly Concurrent Resolution No. 39—Relative to Blue Ribbon Week.

[Filed with Secretary of State April 29, 1993.]

WHEREAS, The brave and devoted peace officers who willingly dedicate their lives to securing a safe society for all are one of our most important resources; and

WHEREAS, Peace officers have long sustained a tradition of maintaining the highest quality possible in the performance of their duties so as to provide a better life environment for others; and

WHEREAS, Peace officers have recently been penalized for the

highly publicized acts of a few who are alleged to have abused their authority; and

WHEREAS, The Support Our Law Enforcement Committee has designated the first week of May 1993 as Blue Ribbon Week in an effort to preserve the commitment of all peace officers and law enforcement agencies to maintaining the security of our communities; and

WHEREAS, Blue Ribbon Week is intended as a show of confidence and support by the general public for all peace officers and law enforcement agencies and as a tremendous morale boost for all the dedicated men and women who wear a badge for the protection of our communities; and

WHEREAS, Every citizen who wears or displays a blue ribbon during the first week of May 1993 will demonstrate his or her support for every peace officer and law enforcement agency now serving the State of California; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the week of May 2 through May 8, 1993, be proclaimed as Blue Ribbon Week in recognition and support of all peace officers and law enforcement agencies, and that all citizens are urged to observe these days by wearing or displaying a blue ribbon; 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 23

Assembly Joint Resolution No. 28—Relative to the Republic of Armenia.

[Filed with Secretary of State April 29, 1993.]

WHEREAS, The Republic of Armenia was among the first independent democracies to emerge from the former Soviet Union and to join with the United States in a broad array of international agreements and cooperative undertakings; and

WHEREAS, The Republic of Armenia is not at war with any other country, nor does it make any territorial claim against any other country; and

WHEREAS, The Republic of Armenia is the victim of an economic blockade that prevents food and heating fuel from reaching its more than 3.5 million inhabitants and that is causing untold human suffering from freezing and starvation; and

WHEREAS, The blockade of the Republic of Armenia constitutes an act of war or aggression prohibited by the Charter of the United Nations and violates numerous international legal accords for human rights and for the protection of populations of landlocked countries;

and

WHEREAS, The blockade is being perpetrated by Azerbaijan to further its siege of the independent, ethnically Armenian enclave of Nagorno Karabagh in denial of the rights of Karabagh to self-determination; and

WHEREAS, Turkey, a NATO ally of the United States, is tacitly assisting Azerbaijan's blockade by impeding transit shipments through Turkey to Armenia through interminable delays, extortionary fees and other impermissible measures; and

WHEREAS, California is vitally concerned with the survival and well being of the democratic Republic of Armenia and its people; and

WHEREAS, California is unwilling to bear witness to a second genocide of Armenians in this century, especially at a time when the United States can exercise significant influence on Azerbaijan and Turkey to comport their conduct with international law; 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 take immediate steps necessary to cause Azerbaijan to cease its illicit blockade of Armenia and calls upon that country and Turkey to resume honoring transit rights for shipments of food and fuel to the neighboring people of the republic of Armenia; 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. 5—Relative to earthquake preparedness.

[Filed with Secretary of State May 5, 1993.]

WHEREAS, In the past year, California has experienced an increase in seismic activity; and

WHEREAS, Californians were fortunate that the 6.2 magnitude Joshua Tree, 7.1 magnitude Cape Mendocino, 7.4 magnitude Landers, and 6.5 magnitude Big Bear earthquakes occurred in sparsely populated areas, and that injury, both to property and individuals, was minimal; and

WHEREAS, With every additional earthquake, seismologists predict that a major seismic event in California is inevitable and likely to occur within the next 30 to 50 years; and

WHEREAS, The aftermath of a disaster is not the time for

individuals to evaluate their needs that must be served; and

WHEREAS, Eighty percent of all Californians live in areas that are vulnerable to earthquakes; and

WHEREAS, Only 18 percent of all Californians worry and prepare for the possibility of a major earthquake; and

WHEREAS, A principal 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 among the Legislature, the state, local governments, and private nonprofit organizations including, but not limited to, the Red Cross and Salvation Army, is the most effective method to develop public awareness about earthquake preparedness; 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 of every year 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 a copy of this resolution to the Governor, the Seismic Safety Commission, each county board of supervisors, and each city council in the state.

RESOLUTION CHAPTER 25

Assembly Concurrent Resolution No. 43—Relative to Child Abuse Prevention Month.

[Filed with Secretary of State May 5, 1993.]

WHEREAS, Child abuse and neglect are serious problems that affect over 2,000,000 children in this country each year; and

WHEREAS, Over 10,000 children in Monterey County were reported to be at risk for child abuse and neglect in 1992; and

WHEREAS, Children have a right to be free from neglect, physical abuse, sexual molestation, and exploitation; and

WHEREAS, Concerned individuals, public and private agencies, schools, and community groups are working together in new collaborations to increase awareness of child abuse, decrease the incidence of child maltreatment, coordinate services to assist victims and their families, and improve family functioning to ensure that children have a healthy start; and

WHEREAS, The month of April 1993 has been proclaimed Child Abuse Prevention Month in our nation to promote increased public awareness and support for prevention and intervention programs and to acknowledge the volunteers and professionals who give their time in prevention and intervention activities to help at-risk children

and their families; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State of California proclaims April 1993 as Child Abuse Prevention Month and encourages all its citizens to support child abuse prevention activities in schools and communities throughout the state.

RESOLUTION CHAPTER 26

Assembly Concurrent Resolution No. 44—Relative to California Small Business Week.

[Filed with Secretary of State May 5, 1993.]

WHEREAS, The President of the United States, by proclamation, will designate the week of May 9, 1993, through May 15, 1993, as national Small Business Week in recognition of the outstanding contributions of the owners of small businesses of our nation; and

WHEREAS, The President will request the Governor to proclaim the week of May 9, 1993, through May 15, 1993, as California Small Business Week; and

WHEREAS, Almost 94 percent of business establishments in California are owned by small businesses; and

WHEREAS, Small businesses create more new jobs than any other sector of our economy, providing two out of three initial job opportunities; and

WHEREAS, Small businesses in California are the state's largest employer, employing close to 60 percent of California's private nonfarm workers; and

WHEREAS, Small businesses owned by women and minorities have almost doubled since 1982; and

WHEREAS, California's small businesses have a vital role in expanding our state's trade relationships with countries of the Pacific Rim; and

WHEREAS, California's small businesses account for almost 15 percent of the value of total United States exports; 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 that 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 9, 1993, through May 15, 1993, as California Small Business Week, in special recognition of the contributions that 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 27

Assembly Concurrent Resolution No. 11—Relative to the Warsaw Ghetto Uprising.

[Filed with Secretary of State May 10, 1993.]

WHEREAS, In 1942, some 360,000 Jews were confined in the ghetto in Warsaw, Poland, by the occupying Nazi army; and

WHEREAS, Between July 1942 and September 1942 the Nazis deported 300,000 men, women, and children from the ghetto of which 265,000 were sent to the Treblinka death camp; and

WHEREAS, A small cadre of Jewish fighters with the support of the ghetto community determined to physically resist further deportations by the Nazis; and

WHEREAS, With a handful of guns and explosives, some 700 ghetto fighters kept the highly trained Nazi armed tank detachment embattled in the ghetto from April 19, 1943, until May 16, 1943; and

WHEREAS, The Nazis quelled the uprising only by burning the ghetto to the ground, building by building; and

WHEREAS, Despite the overwhelming odds against the Jews, the Warsaw Ghetto was the first instance of an uprising by an urban population in Nazi-occupied Europe; and

WHEREAS, Fifty years have passed since the uprising; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the California Legislature hereby joins the Anti-Defamation League and the Jewish community in acknowledging the suffering and courage of the Warsaw Ghetto population; and be it further

Resolved, That the Legislature commemorates the 50th anniversary of the Warsaw Ghetto Uprising; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the appropriate Jewish and Polish organizations observing this anniversary.

RESOLUTION CHAPTER 28

Senate Joint Resolution No. 3—Relative to universal health care.

[Filed with Secretary of State May 11, 1993.]

WHEREAS, All Californians have a right to medically necessary health care, including long-term services; and

WHEREAS, Children, low-income working and unemployed persons, and persons with disabilities and chronic conditions, in particular, face deteriorating access to all levels of medical care; and

WHEREAS, Over six million Californians presently have no health insurance, and the number of these persons is growing at an alarming rate; and

WHEREAS, It has been documented that the lack of access to medically necessary health care leads to a decline in health status including birth defects, lifelong disabilities, uncontrolled diabetes, hypertension, and untreated chronic conditions; and

WHEREAS, This lack of access to care results in unnecessary pain and suffering and leads to overuse of expensive emergency facilities; and

WHEREAS, Providing preventive health care will efficiently and effectively improve the health of all Californians and can significantly reduce the need for more expensive long-term care later in life; and

WHEREAS, The health and well-being of individuals is directly related to their ability to obtain necessary medical care and health-related support services for emergency, chronic, and long-term conditions; and

WHEREAS, The integration of long-term care services with comprehensive health care is cost-effective, protects persons with disabilities from being impoverished by the cost of nursing facility care, and allows maximum independence for those who can remain safely at home; 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 urges the President and the Congress of the United States to evaluate and author proposals for universal health care based on the following set of criteria:

(a) Health care should be available for all residents regardless of employment status.

(b) Health benefits should be comprehensive, covering all medically necessary care.

(c) People should be assured quality care and choice of provider, with individuals able to choose freely among private and public health plans.

(d) Health care should be affordable for every individual and family. An annual overall budget cap, determined through a publicly accountable process, should be established for all health care

resources to limit overall health spending.

(e) Any alternative to the current health delivery system should generate increased administrative efficiency and savings.

(f) Preliminary elements of a social insurance plan for long-term care should be put in place at the time a proposal is passed.

(g) Medical care should be culturally appropriate and linguistically accessible. It should meet the individual health and social needs of people with disabilities or with chronic or unusual medical needs; 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 29

Assembly Concurrent Resolution No. 51—Relative to California Public Lands Week.

[Filed with Secretary of State May 18, 1993.]

WHEREAS, Federally owned public lands, which comprise more than 60 percent of the state, have made many contributions to the heritage and well-being of the state's citizens and to the Nation as a whole; and

WHEREAS, The citizens of the state enjoy economic, recreational, and social advantages because of those public lands, and those public lands are of value not only to the state's rural communities whose livelihood may depend upon the use of the lands, but to all other California citizens as well; and

WHEREAS, Those public lands have made a valuable contribution to the state's livestock, mining, timber, oil and gas, and recreation industries by creating innumerable jobs; and

WHEREAS, The many activities conducted on those public lands must be sustained, while balancing those activities with the conservation of those lands; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby recognizes the many benefits which the citizens of this state derive from the use and enjoyment of federally owned public lands in California, and hereby declares the week of May 9, 1993, to May 15, 1993, as California Public Lands Week.

RESOLUTION CHAPTER 30

Senate Joint Resolution No. 14—Relative to the Alameda Naval Air Station.

[Filed with Secretary of State May 25, 1993.]

WHEREAS, Several California military bases have been recommended for closure to the federal Base Closure Commission; and

WHEREAS, The closure of these bases will not only have a severe impact on California's economy, but also on the strategic military strength of the United States; and

WHEREAS, The closure of the Alameda Naval Air Station will result in the loss of multiple thousands of jobs and $1.5 billion dollars of federal procurement funds; and

WHEREAS, Alameda Naval Air Station has full anchorage capacity; and

WHEREAS, Alameda Naval Air Station is licensed as a nuclear homeporting facility; and

WHEREAS, Alameda Naval Air Station has the capability to homeport three nuclear carriers; and

WHEREAS, Alameda Naval Air Station is fully equipped with the necessary infrastructure to support its personnel; and

WHEREAS, Over the last five decades, Alameda Naval Air Station has demonstrated the capacity to deploy large numbers of military personnel and equipment to support the military interest of the United States; and

WHEREAS, There exists a proposal to replace the Alameda Naval Air Station with a new facility in Everett, Washington; and

WHEREAS, It would cost in excess of $2 billion dollars to construct a skeleton facility at the site in Everett, Washington; and

WHEREAS, Everett, Washington does not have a strategically sound harbor; and

WHEREAS, Everett, Washington does not have the infrastructure to support its personnel; and

WHEREAS, Everett, Washington does not have licensing for nuclear homeporting; and

WHEREAS, The environmental review required for licensure of homeporting can take up to eight years; and

WHEREAS, At best, the site at Everett, Washington would have the capability to homeport one nuclear carrier; and

WHEREAS, Neither a cost benefit analysis nor a strategic analysis support the closure of Alameda Naval Air Station in order to build a facility in Everett, Washington; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature respectfully requests that the Senate Armed Services Committee and the House Armed Services Committee of the Congress of the United States each hold a hearing

on the subject of the military viability of closing the Alameda Naval Air Station and constructing a new facility in Everett, Washington; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Senate Armed Services Committee and the House Armed Services Committee of the Congress of the United States.

RESOLUTION CHAPTER 31

Senate Concurrent Resolution No. 4—Relative to the California Law Revision Commission.

[Filed with Secretary of State June 2, 1993.]

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 1992, lists 26 topics, all of which the Legislature has previously authorized or directed the commission to study, and lists three new topics which the commission recommends it be authorized 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 Legislature refers to the California Law Revision Commission for study the new topics listed below:

(1) Whether the Uniform Unincorporated Nonprofit Association Act, or parts of the Uniform Act, and related matters should be adopted in California;

(2) Whether the law governing unfair competition litigation under Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code should be revised to clarify the scope of the chapter and to resolve procedural problems in litigation under the chapter, including the res judicata and collateral estoppel effect on the public of a judgment between the parties to the litigation, and related matters;

(3) Whether the requirement of paragraph (2) of subdivision (b) of Section 800 of the Corporations Code that the plaintiff in a shareholder's derivative action must allege the plaintiff's efforts to secure board action or the reasons for not making the effort, and the standard under Section 309 of the Corporations Code for protection of a director from liability for a good faith business judgment, and related matters, should be revised; 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 32

Senate Joint Resolution No. 7—Relative to housing.

[Filed with Secretary of State June 2, 1993.]

WHEREAS, The issuance of mortgage revenue bonds that were tax exempt under federal law, also known as qualified mortgage bonds, was terminated pursuant to Section 143(a)(1)(B) of the Internal Revenue Code as of June 30, 1992; and

WHEREAS, The State of California and local governments have made extensive use of this mortgage financing source to assist low-income and moderate-income families and individuals acquire their first homes; and

WHEREAS, From the establishment of the California Housing Finance Agency in 1975 through June 1992, the agency funded 50,378 single-family home mortgages with a total value of approximately $3,600,000,000; and

WHEREAS, Between January 1985 and September 1992, approximately $2,900,000,000 in mortgage revenue bonds have been

issued by local governments to fund single-family home mortgages; and

WHEREAS, The federal authority for the use of low-income housing tax credits to stimulate the production of rental housing with units affordable to lower income families and individuals was terminated, pursuant to Section 42 of the Internal Revenue Code, as of June 30, 1992; and

WHEREAS, From the establishment of the tax credit program in 1987, low-income housing tax credits have been awarded to fund 657 projects with a total of 31,524 affordable units; and

WHEREAS, It is estimated that the low-income housing tax credit has raised $900,000,000 in project equity that, when combined with other housing resources, has been an important incentive for the development of low-income rental housing; 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 proposes to the Congress of the United States that it permanently reinstate both of the following:

(1) The authorization of the issuance of tax-exempt mortgage revenue bonds to finance mortgages for low-income and moderate-income first-time homebuyers.

(2) The authority for the use of federal low-income housing tax credits to stimulate the production of rental housing with units affordable to lower income families and individuals; 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, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 33

Assembly Joint Resolution No. 27—Relative to military base closure.

[Filed with Secretary of State June 2, 1993.]

WHEREAS, Many military bases are the site of releases of hazardous substances; and

WHEREAS, The hazardous substance contamination at those sites have not been cleaned up for years; and

WHEREAS, The presence of hazardous substances at those closed military bases may prevent future civilian uses of those lands; and

WHEREAS, Reliable and consistent funding for cleanup and for the evaluation of future land use has not been forthcoming; now, therefore, be it

Resolved by the Assembly and Senate of the State of California,

jointly, That the Members of the Legislature hereby request the Congress of the United States, prior to the closure of any military facility in California, to provide a consistent and reliable source to finance the cleanup of any hazardous substance contamination at the site and to finance the Environmental Baseline Survey which is necessary to determine responsible and sound future land use for the site; 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 Administrator of the Environmental Protection Agency, 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 34

Senate Joint Resolution No. 10—Relative to vehicle inspection and maintenance.

[Filed with Secretary of State June 4, 1993.]

WHEREAS, California has long experienced significant air quality problems in many of its urbanized areas, and a major reason for those problems is the exhaust emissions produced by the operation of the state's 26,000,000 motor vehicles; and

WHEREAS, California has long been a leader in implementing programs and measures to reduce vehicle exhaust emissions and improve the air quality of the state, including new vehicle emission standards, emission control system warranty and repair requirements, cleaner fuel formulations, increasing emphasis on public and private transit system usage, incentives for increased vehicle occupancy, and the periodic inspection and maintenance of motor vehicles; and

WHEREAS, The state's vehicle inspection and maintenance (I/M) programs have progressed from a simple inspection upon change of ownership in the 1960's, to a centralized I/M program in the greater Los Angeles region, to the decentralized biennial smog check program begun in 1984 in areas of the state which are in nonattainment for ambient air quality standards, and to the upgraded BAR-90 smog check program in effect since 1990; and

WHEREAS, The federal Clean Air Act Amendments of 1990 (P.L. 101-549) establish a three-pronged approach for achieving major emission reductions from transportation sources, consisting of cleaner vehicles, cleaner vehicle fuels, and the in-use control of vehicles through sophisticated I/M programs; and

WHEREAS, The federal act directs the Environmental Protection Agency (EPA) to establish a minimum performance standard for

enhanced I/M programs based on the performance achievable by annual inspections in a centralized testing operation, and has required the states to adopt the required changes not later than November 15, 1993; and

WHEREAS, The concept of a performance standard is intended to provide the states with flexibility in choosing the design elements of the enhanced I/M program, as long as the program's overall effectiveness meets the performance standard; and

WHEREAS, The California I/M Review Committee has evaluated California's current program and concluded that it does not meet either state emission reduction goals or the enhanced performance standards adopted by the EPA, and that major program improvements will be required in many urbanized areas of the state to meet the state and federal air quality standards; and

WHEREAS, The EPA rule grants a reduced credit or discount to states which have a decentralized system, and the I/M committee has proposed that California adopt a centralized program which provides for the separation of inspection and repair operations; and

WHEREAS, The Administrator of the EPA and the Secretary of the United States Department of Transportation have corresponded with the Governor indicating their intent to impose fiscal sanctions on California if the state does not meet a November 15, 1993, deadline for submitting an enhanced I/M program; and

WHEREAS, California currently has a decentralized I/M program in which the combined testing and repair of vehicles is authorized, and, as a result, businesses participating in the program have invested considerable capital in the purchase of BAR-90 test equipment and the training of personnel to operate that equipment; and

WHEREAS, The consequences of the I/M committee's recommendations for businesses, employees, and the motoring public are enormous, and include significant economic effects, job and employment considerations, and issues of public cost and inconvenience; and

WHEREAS, Questions have been raised regarding the accuracy of the I/M committee's report and the appropriateness of its recommendations and conclusions, with Members of the Legislature seeking an assessment of the report by an independent, blue-ribbon panel of experts; and

WHEREAS, Further assessment and a better understanding of the potential impact of the I/M report and its recommendations and the EPA's regulations are necessary before concluding any agreement on revisions to the I/M program and complying with the new federal requirements; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature respectfully memorializes the President of the United States and the Environmental Protection Agency to give California increased flexibility in assessing the effectiveness of the state's current I/M program, in redesigning the program, and in

meeting the new federal performance standards for vehicle emission reductions; and be it further

Resolved, That the EPA and the Federal Highway Administration are requested to delay the imposition of fiscal sanctions during the Legislature's consideration of revisions to the I/M program; and be it further

Resolved, That the EPA is requested to not impose any arbitrary discount factor on the potential effectiveness of I/M program enhancements and design elements in California's program which might differ from the theoretical model used in developing the EPA's performance standard; 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 Administrator of the Environmental Protection Agency, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 35

Assembly Concurrent Resolution No. 3—Relative to the Citizen's Commission on Ballot Initiatives.

[Filed with Secretary of State June 10, 1993.]

WHEREAS, Resolution Chapter 120 of the Statutes of 1991, which created the Citizen's Commission on Ballot Initiatives, provides that the commission shall terminate on January 1, 1993; and

WHEREAS, The commission was created to 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

WHEREAS, In order that the work of the commission be conducted to the fullest extent possible it is necessary that the commission's authority be extended for an additional period; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Citizen's Commission on Ballot Initiatives continue its work as charged pursuant to Resolution Chapter 120 of the Statutes of 1991, the provisions of which are hereby incorporated in full; and be it further

Resolved, That the commission shall terminate on January 1, 1994; and be it further

Resolved, That appointed members of the commission shall be entitled to receive actual and necessary travel expenses only; and be

it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Secretary of State and to members of the commission.

RESOLUTION CHAPTER 36

Assembly Concurrent Resolution No. 27—Relative to smoking.

[Filed with Secretary of State June 17, 1993.]

WHEREAS, In January 1993, the United States Environmental Protection Agency (EPA) concluded that exposure to secondhand tobacco smoke is a serious and substantial health risk for nonsmokers; and

WHEREAS, The EPA concluded that secondhand tobacco smoke is a human lung carcinogen, responsible for approximately 3,000 lung cancer deaths annually in nonsmokers in the United States; and

WHEREAS, The Surgeon General of the United States has concluded that tobacco smoke is an important risk factor for heart disease, and recent evidence also suggests an association between exposure to secondhand tobacco smoke and an increased risk of heart disease in nonsmokers; and

WHEREAS, Additional adverse health effects associated with secondhand tobacco smoke include, but are not limited to, cervical cancer, spontaneous abortion, and low birthweight babies; and

WHEREAS, The simple separation of smokers from nonsmokers does not eliminate nonsmokers' exposure to secondhand tobacco smoke, and due to the carcinogenic nature of secondhand tobacco smoke, the National Institute for Occupational Health and Safety recommends that tobacco use be eliminated in the workplace; and

WHEREAS, There is a partial ban on smoking in the State Capitol Building; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the smoking of tobacco products is prohibited at any time inside any building owned, leased, or occupied by the Legislature. This includes any outdoor area within five feet of a main exit or entrance and all indoor areas, including Senate and Assembly chambers, hearing rooms, offices, restaurants, hallways, stairwells, and bathrooms.

RESOLUTION CHAPTER 37

Assembly Joint Resolution No. 22—Relative to Long Beach Naval Base.

[Filed with Secretary of State June 17, 1993.]

WHEREAS, The Long Beach Naval Base consists of the Long Beach Naval Station and the Long Beach Naval Shipyard; and

WHEREAS, The Long Beach Naval Base provides a crucial service to the maintenance of United States naval vessels, enhancing the readiness of the Pacific Fleet and the effectiveness of United States military forces; and

WHEREAS, The United States must maintain facilities on the west coast that can accommodate naval ship repairs and design alterations, and provide depot level maintenance to the Pacific Fleet of the United States Navy; and

WHEREAS, The Long Beach Naval Shipyard is one of the most efficient naval shipyards in the nation, and is the only shipyard south of Seattle that is capable of launching an aircraft carrier, an essential weapon in the post-Cold War military arsenal; and

WHEREAS, The Long Beach Naval Shipyard employs approximately 4,000 people and generates significant annual payroll and business revenues, supporting local businesses, surrounding communities, and enhancing the Ports of Long Beach and Los Angeles; and

WHEREAS, The City of Long Beach has already suffered the closure of the Long Beach Naval Station, eliminating 16,000 jobs and costing an estimated $1 billion annually in payroll and revenue losses; and

WHEREAS, The Navy has considered proposals for military base closures and submitted them to the Defense Department for the purpose of determining which of the eight current United States Naval Shipyards will be closed; and

WHEREAS, California has already suffered half of the total national civilian and military job losses from base closures, severely impacting the California economy and all of California's citizens; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature hereby memorializes the President and the Congress of the United States to provide for the continued operation of the Long Beach Naval Base as an essential facility for the Pacific Fleet of the United States Navy and as an integral part of the southern California economy; 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 38

Assembly Joint Resolution No. 42—Relative to the Marine Corps Logistics Base at Barstow, California.

[Filed with Secretary of State June 18, 1993.]

WHEREAS, The United States Marine Corps serves as the nation's primary force-in-readiness; and

WHEREAS, The United States Marine Corps has a unique capability of diverting large cargo ships full of well-maintained combat supplies anywhere in the world at a moment's notice; and

WHEREAS, By using its maritime prepositioning ships to deploy heavy equipment and weapons to the Persian Gulf and Somalia the Marine Corps demonstrated its ability to move the heaviest, most sustainable combat brigades operating from land, sea, and air anywhere in the world faster than any other military force; and

WHEREAS, During Operation Desert Storm, personnel at the Marine Corps Logistics Base at Barstow, California, loaded more than 1,700 railcars with equipment and other supplies and transferred them to southern California ports over a two-week period; and

WHEREAS, In support of the Marine Corps' worldwide commitment to deployment, despite being the smallest military service in the Department of Defense with the smallest budget and the fewest number of bases, the Marine Corps Logistics Base at Barstow is one of only two central distribution and maintenance activities responsible for supporting the Marine Corps worldwide; and

WHEREAS, The mission of the Marine Corps Logistics Bases at Barstow, California, and at Albany, Georgia, of supporting the Marine Corps' maritime prepositioning forces worldwide cannot currently be accomplished by any other service; and

WHEREAS, The Marine Corps Logistics Base at Barstow is centrally located in the Mojave Desert at the intersections of Interstates 15 and 40 as well as the Santa Fe and Union Pacific Railroads; and

WHEREAS, These transportation links, in addition to the Barstow-Daggett Airport, which has the capacity to land the C-141 "Starlifter" cargo jet, enable the base to rapidly and efficiently support Marine Corps units west of the Mississippi and throughout the Pacific region and Asia; and

WHEREAS, The Marines at Barstow efficiently operate the largest railhead facility in the entire Department of Defense supporting two of the largest training bases in the world, the nearby National Training Center at Fort Irwin and the Marine Corps Air-Ground Combat Center at Twentynine Palms; and

WHEREAS, Barstow's arid desert climate allows outdoor storage and maintenance throughout the year, with warehouses and open storage lots in excess of 13 million square feet and with minimal

corrosion and rust problems; and

WHEREAS, The Marine Corps Logistics Base at Barstow repairs and rebuilds a multitude of equipment, including circuit boards, armored vehicles, and other equipment essential to fleet Marine Corps forces; and

WHEREAS, Fort Irwin's main logistics and maintenance facility, the Sacramento Army Depot, has been slated for closure, leaving the next closest facility in another state; and

WHEREAS, The Army already sends an average of 250 railcars through the Marine Corps Logistics Base at Barstow monthly; and

WHEREAS, Fort Irwin's inventory includes 3,000 different pieces of equipment that require periodic rebuilding, and the Army can save tremendously on freight costs by sending its Fort Irwin equipment to Barstow rather than out of state; and

WHEREAS, The Army is already in negotiations with the Marine Corps to have such rebuilding performed on Army Bradley fighting vehicles, and the Marine Corps Logistics Base at Barstow was recently awarded a maintenance contract for Paxman 5,000-horsepower engines, which are used in U.S. Coast Guard and Navy vessels; and

WHEREAS, The Marine Corps Logistics Base at Barstow was awarded the maintenance contract for the U.S. Army Missile and Space Intelligence Command's XM-TAS radar carrier vehicle, awarded the contract over the FMC Corporation and Anniston Army Depot; and

WHEREAS, A key reason for the awarding of this contract was Barstow's ability to integrate the vehicle into its workload and to provide an acceptable beginning and completion date; and

WHEREAS, With the closure of deployment facilities at Long Beach, California, and Fort Ord, California, the Army's main point for deploying combat forces abroad will be Fort Irwin, which will increase transportation demands into and out of the area; and

WHEREAS, Logistical distribution functions are being centralized under the Defense Logistics Agency, so the Marine Corps Logistics Base at Barstow has the potential to become an even more important logistics support activity for Fort Irwin, the Marine Corps bases at Camp Pendleton and Twentynine Palms, and other military services throughout the southwestern United States; and

WHEREAS, The Marine Corps Logistics Base at Barstow is one of only two primary storage and distribution facilities in the Marine Corps and is responsible for supporting fleet Marine Corps forces west of the Mississippi, including the Pacific region and Asia, and is positioned to best support the largest concentrations of Marine Corps forces; and

WHEREAS, The Marine Corps Logistics Base at Barstow possesses some of the most unique and modern testing facilities in the world, with an added ability to develop its own test equipment and to design, prototype, test, manufacture, ship, and install new equipment anywhere in the world within weeks, as occurred with

the D-7 Dozer armor plate kits used in Operation Desert Storm; and

WHEREAS, These kits were installed by the Logistics Command's own multicommodity maintenance personnel within 65 days and were installed in Saudi Arabia prior to the invasion of occupied Kuwait; and

WHEREAS, Five of the armored D-7 Dozers were destroyed in battle and none of the Marines operating them were injured; and

WHEREAS, The flexible production schedules and multicommodity capabilities of logistics bases make them uniquely qualified and essential to such immediate needs of the maritime prepositioning forces; and

WHEREAS, The Marine Corps Logistics Base at Barstow operates at 98 percent of capacity, while Army counterparts operate far below capacity and as a result are closing 30 percent of their depots; and

WHEREAS, The two Marine Corps Logistics Bases at Barstow, California, and Albany, Georgia, together constitute less than 1 percent of the Department of Defense's Operations and Maintenance costs for logistics; and

WHEREAS, The Marine Corps Logistics Base at Barstow is the largest employer of residents from the nearby community with a civilian payroll seven times the size of its military payroll; and

WHEREAS, The City of Barstow suffers an unemployment rate of approximately 15 percent, with one-third of its residents on public assistance; and

WHEREAS, The same region has recently suffered the closure of George and Norton Air Force Bases, and is facing a downsizing of March Air Force Base; 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 Base Realignment and Closure Commission, the President, and the Congress of the United States, to recognize the cost-effectiveness, efficiency, and strategic importance of the Marine Corps Logistics Base at Barstow, California; and be it further

Resolved, That the Legislature recommends to the President, the Congress, and the Base Realignment and Closure Commission that the Marine Corps Logistics Base at Barstow remain in operation due to its operational and strategic necessity to the United States Marine Corps, the United States Army, and the United States Navy; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor, to each member of the Base Realignment and Closure Commission, to the President and Vice President of the United States, to the Secretary of Defense, 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 39

Assembly Concurrent Resolution No. 28—Relative to tourism.

[Filed with Secretary of State June 22, 1993.]

WHEREAS, The State of California has a $54 billion a year tourism industry; and

WHEREAS, The tourism industry is present in all areas of the state, including the Yosemite area, San Francisco, Los Angeles, Lake Tahoe, the scenic Pacific coastline, the Mojave Desert, the central valley, the Sierra Nevada mountain range, Catalina Island, and San Diego; and

WHEREAS, The tourism industry in California supports local businesses and cities throughout the state, increasing revenues for vital services, bringing a needed flow of money into the state; and

WHEREAS, The state's tourism industry provides significant employment opportunities to the state's residents and to its supportive industries; and

WHEREAS, The Legislature should make every effort to encourage the promotion of California tourism and the attraction of tourists to the state; and

WHEREAS, The month of July is one of the busiest tourism months of the year, and promotion of state tourism may help to provide additional revenue to California businesses and cities; 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 July 1993 to be State Tourism Month, welcoming and encouraging tourism to the state and supporting local efforts in support of this measure; 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 40

Assembly Concurrent Resolution No. 42—Relative to National Federation of Independent Business Week.

[Filed with Secretary of State June 22, 1993.]

WHEREAS, The National Federation of Independent Business was founded in 1943 as a nonpartisan and nonprofit advocate of small business ownership; and

WHEREAS, The National Federation of Independent Business has unswervingly dedicated itself to defending the American free enterprise system based on private ownership, fair competition, and the opportunity to pursue entrepreneurship; and

WHEREAS, The National Federation of Independent Business is a faithful representative of the small business community, always relying on the opinion of its members to determine its policy positions on legislative and regulatory issues; and

WHEREAS, The National Federation of Independent Business is California's largest small business advocacy group, representing more than 44,000 small business owners; and

WHEREAS, The grass roots approach to political education and activism employed by the National Federation of Independent Business plays an invaluable role in our democratic process, assuring that California's lawmakers and regulators understand how their decisions will affect the day-to-day operations and profitability of small business owners within their communities; and

WHEREAS, Independently owned businesses have been the bedrock of the American economy and our free enterprise system from colonial days to the present; and

WHEREAS, There are currently over 16 million small businesses in the United States; and

WHEREAS, These independently owned businesses provide nearly one-half of all civilian jobs in this country; and

WHEREAS, Small businesses have created more than two-thirds of all new jobs developed in the United States over the last decade; and

WHEREAS, Aside from creating jobs and wealth, small businesses play vital and enriching roles in community life from coast to coast, underwriting civic and cultural events, educational activities, and charitable endeavors; and

WHEREAS, Owning a small business and passing it along to one's family has been an integral part of the American Dream since the founding of this country; and

WHEREAS, Federal and state legislation and regulation has a powerful effect on the day-to-day operations, profitability, and survival of small firms; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That in honor of the golden anniversary of the National Federation of Independent Business and in recognition of contributions made to the American way of life by this organization and its membership, the week of June 27, 1993, be officially designated National Federation of Independent Business week; and be it further

Resolved, That copies of this resolution be transmitted to the author for appropriate distribution.

RESOLUTION CHAPTER 41

Senate Constitutional Amendment No. 1—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding Section 35 to Article XIII thereof, relating to taxation.

[Filed with Secretary of State June 24, 1993.]

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 1993–94 Regular Session commencing on the seventh day of December 1992, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the State be amended by adding Section 35 to Article XIII thereof, to read:

SEC. 35. (a) The people of the State of California find and declare all of the following:

(1) Public safety services are critically important to the security and well-being of the State's citizens and to the growth and revitalization of the State's economic base.

(2) The protection of the public safety is the first responsibility of local government and local officials have an obligation to give priority to the provision of adequate public safety services.

(3) In order to assist local government in maintaining a sufficient level of public safety services, the proceeds of the tax enacted pursuant to this section shall be designated exclusively for public safety.

(b) In addition to any sales and use taxes imposed by the Legislature, the following sales and use taxes are hereby imposed:

(1) For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers at the rate of ½ percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this State on and after January 1, 1994.

(2) An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer on and after January 1, 1994, for storage, use, or other consumption in this State at the rate of ½ percent of the sales price of the property.

(c) The Sales and Use Tax Law, including any amendments made thereto on or after the effective date of this section, shall be applicable to the taxes imposed by subdivision (b).

(d) (1) All revenues, less refunds, derived from the taxes imposed pursuant to subdivision (b) shall be transferred to the Local Public Safety Fund for allocation by the Legislature, as prescribed by statute, to counties in which either of the following occurs:

(A) The board of supervisors, by a majority vote of its membership, requests an allocation from the Local Public Safety Fund in a manner prescribed by statute.

(B) A majority of the county's voters voting thereon approve the addition of this section.

(2) Moneys in the Local Public Safety Fund shall be allocated for use exclusively for public safety services of local agencies.

(e) Revenues derived from the taxes imposed pursuant to subdivision (b) shall not be considered proceeds of taxes for purposes of Article XIII B or state General Fund proceeds of taxes within the meaning of Article XVI.

(f) Except for the provisions of Section 34, this section shall supersede any other provisions of this Constitution that are in conflict with the provisions of this section, including, but not limited to, Section 9 of Article II.

RESOLUTION CHAPTER 42

Senate Constitutional Amendment No. 9—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding Section 26.5 to Article XIII thereof, relating to taxation.

[Filed with Secretary of State July 1, 1993.]

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 1993–94 Regular Session commencing on the seventh day of December 1992, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the State be amended by adding Section 26.5 to Article XIII thereof, to read:

SEC. 26.5. (a) For purposes of income taxation, qualified renters shall be allowed a credit against their net tax in an amount not less than $120 for married couples filing joint returns, heads of household, and surviving spouses, and in an amount not less than $60 for other individuals.

(b) The Legislature may amend those statutes that implement an income tax credit for qualified renters as of January 1, 1993, and may amend or enact other statutes, as necessary to timely or properly administer the credit established by subdivision (a).

(c) This section applies to taxable years beginning on or after January 1, 1995.

RESOLUTION CHAPTER 43

Senate Concurrent Resolution No. 1—Relative to the adoption of the Joint Rules of the Senate and Assembly for the 1993–94 Regular Session.

[Filed with Secretary of State July 1, 1993.]

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 1993–94 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.

This rule may be suspended in either house as to any particular bill by approval of the Committee on Rules of the house and two-thirds vote of the membership of the house.

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. One copy 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 or her 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 or her 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 or her 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 or she 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.

Dispensing with Joint Rules: Unanimous Consent

33.1. Notwithstanding any other rule to the contrary, a joint rule that may be dispensed with by one house may be done so by unanimous consent if the rules committee of that house has approved, and the house has adopted, a house resolution permitting the joint rule to be dispensed with by unanimous consent. A house resolution adopted pursuant to this rule shall require an affirmative recorded vote of 21 or more votes in the Senate and 41 or more votes in the Assembly, and shall not remain in effect longer than the remainder of the legislative year in which it was adopted.

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 or her 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 or she approves the same, certify the amount thereof to the Controller, and the Controller shall draw his or her 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 or she 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 or she 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 or her compensation and to prescribe his or her 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 or she 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 or she 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 or her 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 or chairwoman 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 or chairwoman 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 or Chairwoman of the Joint Rules Committee, and the chairman or chairwoman of the fiscal committee of each house who shall have full voting rights on the subcommittee. The chairman or chairwoman of the subcommittee shall be appointed by the members thereof. For purposes of this subcommittee, the chairmen or chairwomen 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 or she 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 or her, 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 or she 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 or chairwoman 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 16 until August 16. This recess shall not commence until the Budget Bill is enacted.

(4) Interim Study Recess—The Legislature shall be in recess from September 10 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 8 until August 8. 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 5 and no bill may be introduced in the second year of the regular session after February 25. 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 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.

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. 5— Last day for bills to be introduced.
(2) April 23— Last day for policy committees to hear and report to fiscal committees fiscal bills introduced in their house.

(3) May 21— Last day for policy committees to hear and report to the floor nonfiscal bills introduced in their house.
(4) May 28— Last day for policy committees to meet prior to June 14.
(5) June 4— Last day for fiscal committees to hear and report to the floor bills introduced in their house.
(6) June 4— Last day for fiscal committees to meet prior to June 14.
(7) June 11— Last day for each house to pass bills introduced in their house.
(8) June 14— Committee meetings may resume.
(9) July 16— Last day for policy committees to meet and report bills.
(10) Aug. 27— Last day for fiscal committees to meet and report bills.
(11) Aug. 30 through Sept. 10— Floor session only. No committee may meet for any purpose.
(12) Sept. 10— Last day for each house to pass bills.

(b) Even-numbered year:

(1) Jan. 14— 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. 21— 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. 25— Last day for bills to be introduced.
(5) April 15— Last day for policy committees to hear and report to fiscal committees fiscal bills introduced in their house.
(6) May 13— Last day for policy committees to hear and report to the floor nonfiscal bills introduced in their house.
(7) May 20— Last day for policy committees to meet prior to June 6.
(8) May 27— Last day for fiscal committees to hear and report to the floor bills introduced in their house.
(9) May 27— Last day for fiscal committees to meet prior to June 6.
(10) June 3— Last day for each house to pass bills introduced in their house.
(11) June 6— Committee meetings may resume.
(12) July 8— Last day for policy committees to meet and report bills.
(13) Aug. 19— Last day for fiscal committees to meet and report

bills.

(14) Aug. 22 through Aug. 31— Floor session only. No committee may meet for any purpose.

(15) 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 (12) of subdivision (a) and paragraph (15) 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 subdivision (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 subdivisions (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 44

Senate Joint Resolution No. 15—Relative to Mare Island Naval Shipyard.

[Filed with Secretary of State July 1, 1993.]

WHEREAS, Pursuant to the federal Base Closure and Realignment Act, the Base Closure Commission on July 1, 1993, will present recommendations to the President of the United States that certain military bases be closed or realigned; and

WHEREAS, Several California military bases have been recommended for closure by the Secretary of Defense to the federal Base Closure Commission; and

WHEREAS, The closure of these bases will not only have a severe impact on California's economy, but also on the strategic military strength of the United States; and

WHEREAS, The Mare Island Naval Shipyard (hereinafter "Mare Island") in Vallejo is one of northern California's most important economic assets, providing $517 million annually to the Solano County economy alone; and

WHEREAS, The closure of Mare Island would directly and indirectly result in the loss of an estimated 26,000 jobs, pushing unemployment in certain surrounding communities up to 33 percent and resulting in the loss of many thousands of dollars of federal procurement funds; and

WHEREAS, Mare Island, which is one of only two nuclear capable shipyards on the west coast (there being five such facilities on the east coast), is fully equipped with the necessary infrastructure to support its personnel; and

WHEREAS, With its unique laboratory capabilities, Mare Island is the only public shipyard that has ocean engineering capabilities; and

WHEREAS, Mare Island ensures a strong military presence on the west coast and over the last 14 decades, has demonstrated the capacity to assist in the rapid deployment of large numbers of military personnel and equipment to the Pacific Ocean and beyond in support of the military interests of the United States; and

WHEREAS, Political instability in the world, and particularly in the former Soviet Union and North Korea, dictates that the United States maintain its full strategic capabilities; and

WHEREAS, Neither a cost-benefit analysis nor a strategic analysis support the closure of Mare Island; and

WHEREAS, The Navy has underestimated the actual costs associated with closing Mare Island; and

WHEREAS, The Navy has failed to consider that, in 1992, Mare Island was the only naval shipyard to complete the year under budget; and

WHEREAS, Consolidation with other bases will not provide the same capabilities now provided by Mare Island; and

WHEREAS, Closing Mare Island will be a tremendous waste of the many millions of dollars already invested by taxpayers in this strategic facility; and

WHEREAS, Conversion of Mare Island to any civilian use could take many years, particularly due to the presence of significant

amounts of toxic and hazardous wastes, of which the clean-up cost is now estimated to be in excess of $300 million; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature respectfully requests that, if the Mare Island Naval Shipyard is one of the bases recommended by the Base Closure Commission for closure, the President return the Base Closure Commission's recommendations to the commission for reconsideration, and, after reconsideration, if the Mare Island Naval Shipyard remains as one of the bases recommended by the Base Closure Commission for closure, the President reject the commission's recommendations; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President of the United States.

RESOLUTION CHAPTER 45

Assembly Joint Resolution No. 39—Relative to the domestic steel industry.

[Filed with Secretary of State July 2, 1993.]

WHEREAS, The largest steel company in California is USS-POSCO Industries ("USS-POSCO Industries"), a steel finishing company located in Pittsburg, California, that imports most of its basic raw material, high quality steel coils, from one of its joint venture parents, Pohang Iron & Steel Company, Ltd. ("POSCO") of Korea; and

WHEREAS, The USS-POSCO plant, a former United States Steel Corporation facility, faced certain closure in the early 1980's unless there was a significant investment in modern steelmaking equipment and technology; and

WHEREAS, That essential investment, over $400 million, was accomplished through the joint venture agreement between USX and POSCO in 1986; and

WHEREAS, Part of the basis for this vast investment was an assurance by POSCO that it would supply USS-POSCO with the high quality steel coils necessary for the new state-of-the-art equipment; and

WHEREAS, By virtue of the modernization, USS-POSCO has been able to penetrate significant new markets in the western United States and the Pacific Rim and has displaced foreign steel suppliers in many key markets and has begun to export finished steel to Mexico and Japan; and

WHEREAS, In 1992 USS-POSCO was one of three California companies to receive the valued "Factory of the Future" award from the California Department of Commerce; and

WHEREAS, The domestic steel industry filed antidumping

petitions en masse on June 30, 1992, with the U.S. International Trade Commission concerning steel imports from the Republic of Korea, including that supplied by POSCO to USS-POSCO Industries; and

WHEREAS, The California Legislature is concerned that the imposition of antidumping duties on steel imports from Korea would cut California off from the quality and quantity of steel products that USS-POSCO Industries needs to maintain its economic competitiveness; and

WHEREAS, If massive duties were imposed on USS-POSCO's principal source of supply, over 1,000 California jobs would be directly at risk and many more jobs impacted in California; and

WHEREAS, The California Legislature recognizes that the State of California must make every effort to preserve California jobs especially during this period of deep and prolonged recession and high unemployment rate; and

WHEREAS, The Governor of California, congressional representatives, labor representatives, the County of Contra Costa and the Cities of Pittsburg and Antioch have declared their grave concerns to the U.S. International Trade Commission regarding the severe adverse effect on California's economy of imposition of penalties based on these antidumping petitions; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That to protect California jobs and the competitiveness of its steel industry, the Legislature of the State of California respectfully memorializes the U.S. International Trade Commission to issue a finding of "no injury" to the domestic steel industry by virtue of the steel supplied by POSCO to USS-POSCO from any final antidumping order in the case of hot-rolled carbon steel flat products imported from the Republic of Korea in Inv. Nos. 701-TA-319-354 and 731-TA-573-620; 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 United States Secretary of Commerce, the Chairman of the U.S. International Trade Commission, and the U.S. Trade Representative.

RESOLUTION CHAPTER 46

Senate Concurrent Resolution No. 18—Relative to disabled veterans.

[Filed with Secretary of State July 8, 1993.]

WHEREAS, Service-disabled and prisoner of war veterans are benefiting from new medical therapies and prostheses to the extent that they are participating more fully in society, especially in the free enterprise system and the ownership and management of businesses; and

WHEREAS, The Legislature has established systems of procurement and contracting assistance and other benefits that provide participation in state contract goals for service-disabled veterans; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That all counties, cities, and cities and counties are requested and encouraged to enact ordinances and implement policies promoting the participation of service-disabled veteran business enterprises in construction contracts and contracts for the procurement of goods and services entered into by the counties, cities, or cities and counties; and be it further

Resolved, That, the Secretary of the Senate transmit copies of this resolution to the governing bodies of all counties, cities, and cities and counties in the state.

RESOLUTION CHAPTER 47

Senate Concurrent Resolution No. 9—Relative to Central Valley wetlands.

[Filed with Secretary of State July 8, 1993.]

WHEREAS, Ninety-five percent of the wetlands in California's Central Valley have been lost; and

WHEREAS, The Grassland Wetlands represent the largest contiguous tract of freshwater wetlands in California, representing one-third of California's remaining wetlands; and

WHEREAS, The Grassland Wetlands provide winter habitat for 30 percent of the Pacific Flyway winter waterfowl, and are designated as wetlands of international significance by the Western Hemisphere Shorebird Reserve Network; and

WHEREAS, Those remaining wetlands, together with agricultural land, provide critically important food and habitat for a wide variety of wildlife, and are also of significant recreational, economic, and educational value; and

WHEREAS, Providing a healthful and abundant food supply for humans and protecting food and habitat for wildlife go hand in hand; and

WHEREAS, Merced County schools are seeking environmental education opportunities for teachers and students that will enhance the curriculum requirements of the California State Framework for Science; and

WHEREAS, Educational facilities located in the vicinity of coastal wetlands, such as the Alviso Education Center in San Francisco, Elkhorn Slough Reserve in Monterey County, Richardson Bay Audubon Center in Marin County, and Chula Vista Nature Interpretive Center in San Diego County, are teaching the value of those wetlands; and

WHEREAS, There is no similar educational facility located in the Grassland Wetlands of the Central Valley to teach the value of wetlands; and

WHEREAS, The County of Merced and the Grasslands Resource Conservation District recognize the unique and significant wetlands habitats in the grassland of Merced County, and the Grasslands Resource Conservation District is promoting the planning, construction, and operation of the Grasslands Environmental Educational Center, a permanent environmental education center that will provide outdoor science curriculum programs for Merced County schools and other interest groups; and

WHEREAS, The proposed Grasslands Environmental Education Center will be dedicated to creating diverse educational programs that emphasize cooperative relationships between diverse interests, particularly agricultural production and wildlife protection; and

WHEREAS, The Grasslands Resource Conservation District acknowledges the limits of public funding and is aggressively pursuing funding through private sources for immediate and long-term planning, administrative, construction, and operating costs; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature recognizes the importance of environmental education, and encourages and supports the Grasslands Resource Conservation District's effort to develop the Grasslands Environmental Education Center in the wetlands of Merced County; and be it further

Resolved, That the Department of Fish and Game is urged to assist the Grasslands Resource Conservation District in that effort by leasing available state lands for the Grasslands Environmental Education Center; and be it further

Resolved, That the State Department of Education is urged to identify the availability of any funds for the development of the Grasslands Environmental Education Center and for Central Valley wetlands education grants to counties; and be it further

Resolved, That the Department of Fish and Game is urged to to seek additional funding, when available, for educational programs at Department of Fish and Game public use areas in the Grassland Wetlands ; and be it further

Resolved, That the Department of Parks and Recreation and the State Department of Education are urged to initiate the development of an interagency memorandum of agreement with state, local, private, and federal agencies to cooperatively support educational programs in the Grassland Wetlands ; and be it further

Resolved, That the Legislature recognizes the need to promote positive relations between the agricultural and environmental communities and support for educational programs such as the Grasslands Environmental Education Center, that combine environmental education with agricultural literacy programs; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Board of Directors of the Grasslands Resource Conservation District, the Director of Fish and Game, the Director of Parks and Recreation, and the Director of Education.

RESOLUTION CHAPTER 48

Senate Concurrent Resolution No. 11—Relative to telephone corporations.

[Filed with Secretary of State July 13, 1993.]

WHEREAS, The State of California is presently experiencing a serious economic downturn that has resulted in a severe recession and increasing unemployment; and

WHEREAS, Industry, especially commerce with great growth potential for the future, should be encouraged to stay in the state and invest in its future; and

WHEREAS, One important industry that the state should be encouraging is telecommunications, which has the potential to improve our citizens' standard of living and establish substantial new employment opportunities; and

WHEREAS, Corporations, including telecommunications companies, are continuing to reduce employment rolls and transfer workers out of state at a time when the quality of telephone service grows increasingly important; and

WHEREAS, Telephone and telecommunications corporations make substantial profits from the huge market in California; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That local telephone companies that operate in California and receive an opportunity to earn a fair profit resulting from a rate of return established by the Public Utilities Commission should be encouraged to maintain and stimulate a greater permanent labor force in California; and the Public Utilities Commission, when determining the levels for rate of return for local exchange carriers in California, when determining further regulatory changes which might impact competition of these corporations in the state, and when considering any mergers, divestitures, or significant changes in ownership or control of these corporations, shall also consider the impact on the state's workforce

and any potential job loss resulting from those decisions; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Public Utilities Commission.

RESOLUTION CHAPTER 49

Senate Concurrent Resolution No. 21—Relative to California Small Brewers Week.

[Filed with Secretary of State July 13, 1993.]

WHEREAS, 1993 marks the 10th anniversary of legislation making possible in California the creation of brewpubs, which combine small breweries with restaurants; and

WHEREAS, Since the enactment of this legislation, California now has more than 85 brewpubs and microbreweries in over 60 California towns and cities, creating an industry recognized as one of the fastest growing in the state; and

WHEREAS, California's brewpubs and microbreweries are contributing significantly to California's economy by creating more than 3,000 new jobs in the past 10 years, increasing investment in construction and manufacturing, providing new markets for agricultural products, expanding business for distributors and retailers, and contributing to California's tax revenues through more than $1,000,000 in state excise taxes annually; and

WHEREAS, Beer as a beverage of moderation has played a significant role in society, dating from the earliest recorded cultures and continuing throughout the social and political history of the United States, and is enjoyed by every segment of the population; and

WHEREAS, California's small brewers are enhancing the public's perception of beer, introducing a broad range of traditional beer styles and emphasizing appreciation and responsible consumption of these hand-crafted products in an atmosphere that brings together both fine beer and outstanding food by some of California's most creative young chefs; and

WHEREAS, California's brewpubs and microbreweries are leaders nationally in the production of high quality ales and lagers, consistently winning awards in commercial competition for their products; and

WHEREAS, Brewing is recognized as one of the oldest community traditions, serving as a center of employment and a social hub of the community, from the first American settlements to the current renaissance in craft brewing; and

WHEREAS, California's small brewers continue this tradition by becoming an important part of their local communities through the

donation of their time and products in support of local charities and activities, supporting causes ranging from children's issues and rape crisis clinics to public television; and

WHEREAS, The innovation and creativity of California's small brewers have stimulated significant research and investment in new processes and equipment, including the introduction of new beer styles and brewing processes; 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 commend the accomplishments of California's small brewers in this, the 10th anniversary of the legislation allowing the establishment of brewpubs, and recognize the important contributions of brewpubs and microbreweries to the economy of the State of California, their commitment to quality and innovation, and their efforts to encourage the responsible appreciation of beer; and be it further

Resolved, That the Legislature of the State of California hereby proclaims the week commencing July 12, 1993, as "California Small Brewers Week" to promote recognition and appreciation for California's brewpubs and microbreweries.

RESOLUTION CHAPTER 50

Senate Joint Resolution No. 17—Relative to Cesar Chavez Day.

[Filed with Secretary of State July 13, 1993.]

WHEREAS, Cesar Chavez was born on March 31, 1927, on a small farm near Yuma, Arizona, that his grandfather homesteaded during the 1880's and passed away on April 22, 1993; and

WHEREAS, The labor movement and all Americans have lost a great leader with the death of Cesar Chavez; and

WHEREAS, One of five children, when he was 10 years of age, he and his family were forced to seek work as migrant laborers, and later he served in the United States Navy in 1944 and 1945; and

WHEREAS, Cesar Chavez was an inspiring fighter for recognition of, and respect for, the human rights and dignity of farmworkers; and

WHEREAS, He founded in 1962 what would later become the United Farm Workers Union. His union was the first to win collective bargaining for farmworkers. At its peak in the 1980's, the U.F.W.'s collective bargaining agreements covered about 80,000 workers in California, Arizona, and Florida; and

WHEREAS, Against great odds, Cesar led a successful five-year strike boycott that rallied millions of supporters to the United Farm Workers. He forged a national support coalition of unions, church groups, students, minorities, and consumers; and

WHEREAS, He was a dedicated advocate of nonviolence and galvanized public support on behalf of farm workers and his

influence extended well beyond farm labor issues and enabled millions of urban Latinos to achieve educational, housing, and political opportunities; and

WHEREAS, Cesar Chavez led a life of sacrifice to improve farm workers' conditions. In 1968, he conducted a 25-day fast to reaffirm the U.F.W.'s nonviolent commitment. In 1988, he conducted a 36-day fast to protest the pesticide poisoning of grape workers and their children. Like other U.F.W. officers and staff, he received an annual pay of less than $5,000 per year; and

WHEREAS, Cesar Chavez's tireless commitment to improve the plight of farm workers profoundly touched the conscience of America and inspired millions of others to work for justice in their own communities; and

WHEREAS, The late Senator Robert Kennedy recognized Chavez as one of the great heroic figures of our times; 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 to annually proclaim March 31 as a national public holiday known as "Cesar Chavez Day"; 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 51

Assembly Concurrent Resolution No. 7—Relative to the El Dorado County Vietnam Veterans Bridge.

[Filed with Secretary of State July 15, 1993.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Weber Creek Bridge on State Highway Route 50 in El Dorado County is hereby officially designated the Vietnam Veterans Bridge; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of appropriate plaques and markers, consistent with 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 the resolution to the Director of Transportation.

RESOLUTION CHAPTER 52

Assembly Concurrent Resolution No. 10—Relative to domestic violence.

[Filed with Secretary of State July 15, 1993.]

WHEREAS, Domestic violence is a serious and widespread problem, recognition of which has grown in recent years; and

WHEREAS, Statistics regarding family violence are sobering. For example, in the United States, a woman is physically assaulted in her home every 15 seconds; and

WHEREAS, Our criminal justice system has been slow to respond to the victims of domestic violence. According to police department data, arrests are made in only 5 percent of domestic disturbance calls in Los Angeles County. Other research indicates that many battered women who kill their abusers previously have attempted, without success, to protect themselves or their children in other ways from battery, and later they are held to an unreasonable standard of justification when they try to assert their right to self-defense in court; and

WHEREAS, Evidence of the battered women's syndrome was only recognized by the California Legislature on January 1, 1992. Even now such evidence is still very limited by the courts in trials of battered women who kill; and evidence of battered women's experiences often is not admitted by the court in trials; and

WHEREAS, Because of these unreasonable standards of justification and limited admissibility of relevant evidence, victims of domestic violence who kill or assault their abusers in self-defense may nonetheless be convicted of felonies carrying long sentences; and many courts continue to mete out disproportionately harsh penalties for women who kill their abusers, even if the killing occurred after years of severe and well-documented abuse; and

WHEREAS, At this moment, there are hundreds of women in California prisons who are serving time for defending themselves against their abusers. These women have been doubly victimized—first by their abusers and later by a criminal justice system that failed to recognize the legitimacy of their self-defense claims; and

WHEREAS, In view of the extraordinary circumstances surrounding their crimes, these victims deserve an impartial review of the sentences they are now serving. It may be that some of them are rightfully imprisoned; however, only when their histories as victims of domestic violence are taken into account can the justice of their incarceration and the length of the sentences they are required to serve be fairly determined; and

WHEREAS, A number of battered women in California prisons have already filed petitions with the Governor for pardon or commutation, or both, documenting their histories of abuse and the

victimization by their partners whom they killed; many other women, who have not yet been identified, are in prison for defending themselves or their children, or both, against their abusers; 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 requests the Governor of the State of California to use the authority granted him under Section 8 of Article V of the California Constitution to direct the Board of Prison Terms to immediately identify and investigate the cases of those battered women serving sentences in state prison who file petitions for clemency and of all other persons convicted of murder, attempted murder, manslaughter, attempted voluntary manslaughter, assault with a firearm, or assault with a deadly weapon or instrument or by means of force likely to produce great bodily injury in violation of Section 245 of the Penal Code, when those convictions were for acts alleged by the defendant to be related to victimization by domestic violence, as defined in Section 13700 of the Penal Code; and be it further

Resolved, That the Legislature of the State of California hereby requests the Governor to direct the Board of Prison Terms to report to him regarding the findings of the investigation and any recommendations for pardons or commutations related to these cases; and be it further

Resolved, That the Legislature of the State of California hereby requests the Governor to use the authority granted him under Section 8 of Article V of the California Constitution to make decisions regarding pardons or commutations within six months after receiving those findings and recommendations; and be it further

Resolved, That The Chief Clerk of the Assembly transmit copies of this resolution to the Governor of the State of California and to the Board of Prison Terms as an expression of serious concern for this issue from the California Legislature.

RESOLUTION CHAPTER 53

Assembly Concurrent Resolution No. 6—Relative to investment of state funds.

[Filed with Secretary of State July 20, 1993.]

WHEREAS, As measured by gross product, California is the sixth largest economy in the world; and

WHEREAS, The California economy is driven by the extensive diversity of its agriculture, manufactured products, and real estate investments; and

WHEREAS, The economic well-being of the state is an integral part of the entire Pacific Rim; and

WHEREAS, The revitalization of California's economic life could very well trigger an upswing in our national and world economy; and

WHEREAS, The Treasurer invests millions of dollars of state funds each day; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Treasurer, in cooperation with the Controller, the Department of Finance, the Department of Real Estate, and the Department of Commerce, be directed to investigate the prospective advantage of investing state financial resources generated within the state in investments within the state; and be it further

Resolved, That the Treasurer, in conjunction with the Controller and the Department of Finance, be directed to develop standards and guidelines whereby the millions of dollars of state funds invested by the state would be directed to those areas that would provide an economic stimulus, such as increased manufacturing, job creation, and housing; and be it further

Resolved, That the Treasurer be directed to investigate the failure of lower federally regulated interest rates to improve the economy in the state, especially as it relates to the reluctance of often overregulated lending institutions to invest available money where there could be an economic impact.

RESOLUTION CHAPTER 54

Assembly Concurrent Resolution No. 47—Relative to Neighborhood Watch Month.

[Filed with Secretary of State July 20, 1993.]

WHEREAS, California's communities recognize Neighborhood Watch as an effective means for keeping crime out of neighborhoods; and

WHEREAS, Neighbors and law enforcement agencies working together create an effective crime fighting team; and

WHEREAS, Every three seconds a residence is victimized by crime; and

WHEREAS, Much remains to be done to ensure the safety of our homes, our neighborhoods, and our communities for ourselves and our children; and

WHEREAS, The battle against crime will not be won by individuals acting on their own; and

WHEREAS, Neighborhood Watch teaches children respect for the law, reinforces community values, and encourages the kind of individual responsibility that makes for healthy, creative neighborhoods populated by safer and happier citizens; and

WHEREAS, In Neighborhood Watch programs, neighbors are on

guard for criminal activity that may occur near their homes, report suspicious activity to the police, and provide escorts for elderly or vulnerable citizens; and

WHEREAS, The growth of Neighborhood Watch programs is truly encouraging; and

WHEREAS, Because of the significance and scope of Neighborhood Watch programs in making neighborhoods safe, it is important that the State of California recognize the many contributions of the residents of this state and of law enforcement officers; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the month of August 1993, be declared Neighborhood Watch Month and that on the occasion of Neighborhood Watch Month, the Legislature of the State of California commends those California residents who have participated in Neighborhood Watch programs for their distinguished service to their communities by uniting with their neighbors and law enforcement to keep their neighborhoods safe, and encourages all Californians to join in this effective means of fighting crime in their neighborhoods.

RESOLUTION CHAPTER 55

Assembly Concurrent Resolution No. 20—Relative to the Chino Valley Freeway.

[Filed with Secretary of State August 25, 1993.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the portion of State Highway Route 71 from the Riverside County line to the intersection with Interstate Highway Route 10 is hereby officially designated the Chino Valley Freeway; 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 56

Senate Concurrent Resolution No. 6—Relative to transportation.

[Filed with Secretary of State July 20, 1993.]

WHEREAS, California, over the past decades, has built an extensive network of freeways and airports to meet the state's growing transportation needs; and

WHEREAS, These facilities are not adequate to meet the mobility needs of the current population; and

WHEREAS, The population of the state and the travel demands of its citizens are expected to continue to grow at a rapid rate; and

WHEREAS, The cost of expanding the current network of highways and airports to fully meet current and future transportation needs is prohibitive, and a total expansion strategy would be detrimental to air quality; and

WHEREAS, Intercity rail service, when coordinated with urban transit and airports, is an efficient, practical, and less polluting mode that could fill the gap between future demand and present capacity; and

WHEREAS, Advances in rail technology have allowed intercity rail systems in Europe and Japan to attain speeds of up to 200 miles per hour and compete effectively with air travel for trips in the 200- to 500-mile range; and

WHEREAS, Development of a high-speed ground transportation system is a necessary and viable alternative to automobile and air travel in the state; and

WHEREAS, In order for the state to have a comprehensive network of high-speed intercity rail by the year 2020, it must begin preparation of a 20-year high-speed intercity rail plan similar to California's former freeway plan and designate an entity with a stable and predictable funding source to implement the plan; and

WHEREAS, Utilizing existing human and manufacturing resources to build a large network of high-speed ground transportation systems will generate jobs and economic growth for today's population and produce a transportation network for future generations; and

WHEREAS, Upon confirmation of need and costs by detailed studies, the private sector, together with the state, can build and operate new high-speed intercity ground transportation services utilizing private and public financing; now, therefore be it

Resolved, by the Senate of the State of California, the Assembly thereof concurring, That the Department of Transportation is requested to prepare a 20-year high-speed intercity ground transportation plan, utilizing contractors and experts from outside the department who are experienced in rail planning, financing, and construction; and be it further

Resolved, That development of the plan be carried out under the

direction of the Intercity High-Speed Rail Commission, composed of members representing diverse population and interests who can bring their knowledge and expertise toward planning such a major undertaking by the state; and be it further

Resolved, That the objective of the high-speed ground transportation system is to serve intermediate intercity travel, leaving local and commute trips to urban transit systems and long intercity travel to air carriers; and be it further

Resolved, That the plan be sufficiently detailed to include corridors, project financing alternatives, and make recommendations for operation and maintenance of the system, and that it be designed to take advantage of the knowledge, expertise, and manufacturing resources that are currently engaged in the defense industries in California; and be it further

Resolved, That a focused and phased approach to implementing a high-speed ground transportation system be taken to ensure the efficient use of scarce resources for high-speed rail; and be it further

Resolved, That the plan identify corridors to be served, and financing and implementation strategies for the development, construction, operation, and maintenance of the high-speed ground transportation system; and be it further

Resolved, That a Los Angeles to San Francisco Bay Area High-Speed Corridor be the first corridor developed; and be it further

Resolved, That all feasible routes be considered and that this measure shall not be construed to imply preference for any specific route; and be it further

Resolved, That construction commence on a Los Angeles to San Francisco Bay Area High-Speed Ground Transportation Corridor by the year 2000, and that by the year 2020, high-speed ground transportation service be operating between Sacramento, the San Francisco Bay area, the Los Angeles area, the San Bernardino/Riverside area, Orange County, and San Diego; and be it further

Resolved, That in order for California to have an integrated state-of-the-art, high-speed ground transportation network by the year 2020, construction of the Los Angeles to San Francisco Bay Area High-Speed Corridor should begin by the year 2000, simultaneously with the development of a 20-year intercity high-speed ground transportation plan; and be it further

Resolved, That the high-speed ground transportation system be coordinated with conventional intercity rail service and with urban transit service in each urban area where either of those services is available, and serve directly or through urban transit connections major airports in urban areas of the state; and be it further

Resolved, That the plan include alternative financing methods for the building and operation of the high-speed ground transportation network; and be it further

Resolved, That the financing plan include, but not be limited to,

all of the following:

(1) Construction, operation, and maintenance by a private entity utilizing private funds.

(2) Use of state general obligation bonds.

(3) Use of revenue bonds backed by incremental increases in gasoline tax to pay principal and interest, with a schedule for sale of bonds and a schedule for each incremental gasoline tax increase.

(4) Use of airport funds to the extent that the new network would eliminate the need for airport expansion.

(5) Identification of potential alternative public funding sources; and be it further

Resolved, That the plan include an operation plan with recommendations as to the entities that should be responsible for operation, maintenance, fare schedules, and safety regulations; and be it further

Resolved, That a draft plan be made available to transportation planning and programming entities and the public not later than July 1, 1995; that the Intercity High-Speed Rail Commission hold at least two public hearings, one in northern California and one in southern California, within 60 days following release of its draft plan; that the committee give consideration to the comments and recommendations it receives on its draft plan and develop a final plan; and that the final plan be adopted and submitted to the Governor and the chairperson of the Senate and Assembly Committees on Transportation not later than December 31, 1995; and be it further

Resolved, That the Legislature requests the Governor to establish an Intercity High-Speed Rail Commission composed of nine members as follows:

(1) Four members appointed by the Governor.

(2) Two members appointed by the Senate Committee on Rules.

(3) Two members appointed by the Speaker of the Assembly.

(4) The Secretary of Business, Transportation and Housing; and be it further

Resolved, That members of the commission hold office until the final plan has been submitted to the Legislature and the Governor; and be it further

Resolved, That in appointing members, the appointing powers make every effort to assure that the members of the commission reflect the ethnic and gender diversity of the state's population; and be it further

Resolved, That the Secretary of Business, Transportation and Housing be the chairperson and preside at all meetings of the commission, and, from among its members, the commission elect a vice chairperson to preside in the absence of the chairperson; and be it further

Resolved, That in the case of members appointed by the Governor, the appointments be such that each member meets at least one of the following qualifications:

(1) Experience and knowledge related to the aerospace industry.

(2) Experience and knowledge related to transportation engineering.

(3) Experience and knowledge related to business administration; and be it further

Resolved, That in the case of members appointed by the Senate Committee on Rules, appointments be such that each member meets at least one of the following criteria:

(1) Experience and knowledge related to financing of new private and public projects.

(2) Experience and knowledge related to planning of transportation facilities; and be it further

Resolved, That in the case of members appointed by the Speaker of the Assembly, appointments be such that each member meets at least one of the following criteria:

(1) Experience and knowledge related to environmental protection.

(2) Experience and knowledge related to high-speed train service; and be it further

Resolved, That members of the commission shall not engage in any activity that is prohibited by the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code); and be it further

Resolved, That five members of the commission constitute a quorum for taking any action by the commission; and be it further

Resolved, That the members of the commission be reimbursed for their travel expenses incurred in attending noticed meetings of the commission; that the commission make every effort to hold its meetings in Sacramento and make other necessary efforts to reduce travel expenses subject to reimbursement by the state; and be it further

Resolved, That upon a request by the commission, the Department of Transportation assign department employees as staff for the commission; that the number of employees to be assigned and the individuals to be assigned as staff to the commission be mutually agreed upon by the commission and the Director of Transportation; and that the director shall take all necessary actions to assist the commission to carry out its responsibility; and be it further

Resolved, That the appointing powers make appointments to the commission within 30 days of the date this measure is chaptered.

RESOLUTION CHAPTER 57

Senate Concurrent Resolution No. 17—Relative to water reclamation.

[Filed with Secretary of State July 20, 1993.]

WHEREAS, The development of traditional water resources in California has not kept pace with the state's population increase; and

WHEREAS, There is a need for a reliable source of water to protect investments in agriculture, greenbelts, and recreation, and to protect and enhance fisheries, wildlife habitats, and riparian areas; and

WHEREAS, The people of the state have a fundamental interest in developing water reclamation facilities to supplement existing surface and underground water supplies, and to help meet the state's future water demands; and

WHEREAS, The environmental benefits of using reclaimed water include decreased demand for Sacramento-San Joaquin Delta water that is otherwise needed to maintain water quality, reduced discharge of waste into streams, the ocean, and bay-estuaries, and the enhancement of fisheries and wetlands; and

WHEREAS, The use of reclaimed water has proven to be safe from a public health standpoint, and the State Department of Health Services is updating regulations for the use of reclaimed water; and

WHEREAS, The use of reclaimed water is a cost-effective, reliable method of conserving California's limited water resources; and

WHEREAS, Developing the infrastructure to distribute reclaimed water will provide jobs and enhance the economy of the state; and

WHEREAS, The Water Recycling Act of 1991 (Chapter 7.5 (commencing with Section 13575) of Division 7 of the Water Code) establishes a statewide goal to recycle 700,000 acre-feet of water by the year 2000 and 1,000,000 acre-feet per year by the year 2010; 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 Water Resources, in consultation with other appropriate agencies, to provide suggestions that will help the state meet or exceed the statewide water recycling goals established by the Water Recycling Act of 1991; and be it further

Resolved, That on or before July 1, 1994, the Department of Water Resources report the results of that study to the Senate Committee on Agriculture and Water Resources and the Assembly Committee on Water, Parks and Wildlife; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Department of Water Resources.

RESOLUTION CHAPTER 58

Senate Joint Resolution No. 11—Relative to tax refund liability.

[Filed with Secretary of State August 24, 1993.]

WHEREAS, California state and local governments are experiencing extreme financial hardship; and

WHEREAS, The decision in Aerospace Corp. v. State Bd. of Equalization, 218 Cal. App. 3d 1300 (hereafter Aerospace) will require the refund of California state sales tax revenues to the federal government and its contractors in the amount of nearly one billion dollars ($1,000,000,000); and

WHEREAS, The decision in the case of U.S. v. State of Cal. (Dkt. No. 91-2003), heard in the United States Supreme Court on February 23, 1993, may double that amount to nearly two billion dollars ($2,000,000,000); and

WHEREAS, Other states, notably Colorado, because of the slightly altered phrasing of their state laws, are not similarly liable; and

WHEREAS, California's defense-related industries are also experiencing extreme financial hardship that will be mitigated by the refund of the revenues in question; and

WHEREAS, The League of California Cities has unanimously adopted a resolution urging action by the federal government to mitigate the impacts of the Aerospace decision; and

WHEREAS, Every major city and county throughout California has adopted a similar resolution; and

WHEREAS, Federal legislative action is required to mitigate to any substantial degree the effects of the Aerospace decision; 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 to eliminate or substantially reduce the financial liability of California state and local governments arising from the Aerospace decision in a manner that does not further disadvantage California's defense-related industries; 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 Secretary of Defense, 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 59

Assembly Concurrent Resolution No. 25—Relative to training of volunteer firefighters.

[Filed with Secretary of State August 25, 1993.]

WHEREAS, The firefighters of California, both paid and volunteer, have performed a great service to the citizens of this state throughout its history, particularly in the drought conditions that have plagued the state during recent years; and

WHEREAS, The State of California recognizes and appreciates the services of its volunteer firefighters; and

WHEREAS, The State of California has recommended training requirements for the volunteer firefighters of this state, including training in fire prevention, fire suppression, emergency medical services, and hazardous materials response; and

WHEREAS, Those training requirements are directly related to protecting the health and safety of the people of California; and

WHEREAS, California's community colleges are the primary institutions offering state-recommended firefighter training courses; and

WHEREAS, Most community colleges are experiencing significant financial problems necessitating a reduction of courses and programs; and

WHEREAS, A statewide training program available to all volunteer firefighters is dependent upon ready access to the community college system; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the volunteer firefighters of California be commended for their efforts in providing an invaluable service to their respective communities; and be it further

Resolved, That the community college system is urged to continue to play an integral role in the training of volunteer firefighters in this state; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor, the Board of Governors of the California Community Colleges, and to every volunteer fire department in the state.

RESOLUTION CHAPTER 60

Assembly Concurrent Resolution No. 41—Relative to the Enoch Christoffersen Memorial Rest Area.

[Filed with Secretary of State August 25, 1993.]

WHEREAS, Enoch Christoffersen served as Mayor of the City of Turlock from 1952 to 1958, and again from 1962 to 1978, leaving a legacy of dedicated public service that will long be remembered; and

WHEREAS, His efforts on behalf of the community were wide ranging, and included raising hundreds of thousands of dollars as Chairman of Emanuel Hospital's expansion efforts; and

WHEREAS, As founder and owner of the world's largest turkey processing plant, Enoch Christoffersen was a successful businessman and national leader in the turkey industry, and worked tirelessly to attract additional industry and businesses to Turlock; and

WHEREAS, A valued member of the Full Gospel Businessmen's Fellowship International, he made several trips to the Far East as a missionary to business and political leaders, and served as International Director for many years; and

WHEREAS, As a member of the Turlock City Council, he was deeply involved in the city's negotiations for the Highway 99 freeway bypass and construction of the accompanying exits and overpasses; and

WHEREAS, It is fitting, therefore, that the many outstanding contributions of Enoch Christoffersen be appropriately memorialized; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the highway rest area located just south of the City of Turlock on State Highway Route 99 be officially designated the Enoch Christoffersen Memorial Rest Area; 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 61

Assembly Joint Resolution No. 4—Relative to veterans' benefits.

[Filed with Secretary of State August 25, 1993.]

WHEREAS, The federal medicaid program, California's version of which is known as Medi-Cal, provides various health care services, including nursing home services, through a combination of state and federal funds; and

WHEREAS, The Omnibus Budget Reconciliation Act (OBRA) of 1990 (Public Law 101-508) and Public Law 102-568, reduced the

pension benefits for single Medi-Cal-eligible veterans in nursing homes providing services to Medi-Cal recipients from $1,015 per month to $90 per month; and

WHEREAS, In annual terms the pension was reduced from $12,180 per year to $1,080 per year; and

WHEREAS, Title VI of Public Law 102-568 states, "(5) The provisions of this subsection shall apply with respect to a surviving spouse having no child in the same manner as they apply to a veteran having neither spouse nor child"; and

WHEREAS, For Medi-Cal-eligible widows of veterans in nursing homes providing services to Medi-Cal recipients, Public Law 102-568 reduced the pension from $680 per month to $90 per month, an annual reduction from $8,160 per year to $1,080 per year; and

WHEREAS, With respect to a veteran or widow who uses his or her pension to pay for nursing home care, Public Law 101-508 and Public Law 102-568 effectively shift the cost of the veteran's and widow's care from the veteran's pension to Medi-Cal; and

WHEREAS, Since the State of California pays 50 percent of the Medi-Cal costs for nursing home care, these federal provisions effectively shift these costs from the federal budget to California's budget; and

WHEREAS, The federal provisions that reduced the veteran's and widow's pension benefits of those receiving Medi-Cal-funded nursing home services is not scheduled to sunset until September 30, 1997; and

WHEREAS, The pension reduction for veterans costs state taxpayers approximately $18,000,000 per year and the pension reduction for approximately 9,000 widows of veterans will cost the taxpayers an additional $30,000,000 per year, thus costing the veterans and widows and the other taxpayers of this state approximately $48,000,000 per year; and

WHEREAS, These pension benefit reductions may become applicable to many of this state's 2,800,000 veterans in future years; and

WHEREAS, These federal veteran's and widow's benefit reduction provisions are believed by the Legislature to be unfair to all the citizens of this great state; and

WHEREAS, In accordance with the view expressed by Abraham Lincoln who stated, "Now is the time to care for the widows and orphans of those who have borne the battle," the sunset date of these federal provisions should be changed from September 30, 1997, to September 30, 1993; and

WHEREAS, This change would provide comfort and aid to both the veterans and their widows who are in nursing homes by returning their pension rights provided for many years by Congressional action; 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

terminate the pension benefit limitation provisions for Medi-Cal-eligible veterans and widows in nursing homes on September 30, 1993; 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 each member of the House and Senate committees on veterans' affairs.

RESOLUTION CHAPTER 62

Assembly Joint Resolution No. 31—Relative to Norton Air Force Base.

[Filed with Secretary of State August 25, 1993.]

WHEREAS, As part of the conversion of defense bases to civilian use, San Bernardino Valley College proposes to transfer and expand its aeronautics program to Norton Air Force Base; and

WHEREAS, The aeronautics program trains students in airframe maintenance and airline training, with a near 100 percent placement record; and

WHEREAS, The program has a strong percentage of minority students in its enrollment; and

WHEREAS, The Airport Authority, which will be responsible for Norton Air Force Base after its military closing, has agreed to work with San Bernardino Valley College for the assignment of land and vacant buildings for the use of the aeronautics program; and

WHEREAS, Lockheed Aircraft presently maintains a program of refurbishing older aircraft, and employs graduates of aeronautics programs; and

WHEREAS, The expansion of the San Bernardino Valley College aeronautics program would be a magnet to attract others to the base; and

WHEREAS, The United States Congress is considering, as part of the 1993 appropriations bill, providing a grant of $4.95 million to San Bernardino Valley College for the refurbishing and construction of a facility for its aeronautics program at Norton Air Force Base; 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 provide a grant of $4.95 million to San Bernardino Valley College for the refurbishing and construction of a facility for its aeronautics program at Norton Air Force Base; 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 63

Assembly Joint Resolution No. 41—Relative to Native American burial grounds.

[Filed with Secretary of State August 25, 1993.]

WHEREAS, With the entrance of non-Native Americans into the area that became the State of California, not only were the lands upon which Native Americans lived, hunted, fished, and gathered the products that fed and sheltered them lost, but the very earth that was blessed and held the remains of tribal dead were destroyed; and

WHEREAS, In the State of California, the lack of traditional burial grounds has caused a great problem for many tribal peoples; and

WHEREAS, Native Americans know the procedures that are available for claiming their ancestral remains and the associated grave goods, but do not have access to tribal burial grounds; 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 memorializes the President and the Congress of the United States to provide a minimum of two sites, at least one each in northern and southern California, to accommodate the burial and reburial of Native Americans; and be it further

Resolved, That the sites be located on federally owned land that is returned to Native Americans for this purpose, be of sufficient size to meet the present and projected needs of Native Americans in this state, be near existing tribal communities, be easily accessible, and be located in appropriate natural settings; 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 the Interior, 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 64

Senate Concurrent Resolution No. 23—Relative to the Supplemental Report on the 1993 Budget Bill.

[Filed with Secretary of State August 27, 1993.]

WHEREAS, The Supplemental Report on the 1993 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 1993–94 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 1993 Budget Bill reflects the intent of both houses of the Legislature in adopting the Budget Act of 1993; and be it further

Resolved, That the Supplemental Report on the 1993 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 1993 Budget Bill to the agencies to which the instructions, limitations, or statements of intent are directed in the report, so that the affected agencies may be fully informed of the action of the Legislature.

RESOLUTION CHAPTER 65

Senate Concurrent Resolution No. 15—Relative to Brien Thomas (B.T.) Collins.

[Filed with Secretary of State August 27, 1993.]

WHEREAS, The people of the State of California, most especially those of the Sacramento and Capitol community, grieve the passing of B.T. Collins; and

WHEREAS, Patriot, soldier, public servant and friend—B.T. Collins celebrated the virtues of duty, honor, and compassion in a time when cynicism was easy and fashionable, and his life is a lesson to us; and

WHEREAS, B.T. Collins volunteered for service in Vietnam in 1965, and served in the 1st Air Cavalry Division and the 5th Special Forces Group (Green Berets) where he lost both an arm and a leg in a grenade explosion in the Mekong Delta, and he received a medical retirement in 1968 as a Captain; and

WHEREAS, He earned degrees in both history and law from Santa Clara University, was awarded the Outstanding Graduate Award by the Santa Clara University School of Law Student Body and the Edwin J. Owens Lawyer of the Year Award by the Santa Clara University School of Law, and was a member of the Board of Regents of Santa Clara University; and

WHEREAS, B.T. Collins had a distinguished career in public service, holding positions in both the legislative and executive

branches of state government including Deputy Legislative Secretary and Executive Secretary and Chief of Staff to Governor Edmund G. Brown, Jr., Director of the California Conservation Corps, Chief Deputy State Treasurer, Director of the California Youth Authority, and Member of the California State Assembly (5th District); and

WHEREAS, He served on numerous public and private boards, commissions, and committees, including the Board of Directors and the Advisory Board of W.E.A.V.E. (Women Escaping A Violent Environment), the California Commission on Educational Quality, the Naval Post Graduate Advisory Committee, the Veterans Administration Advisory Committee on the Readjustment of Vietnam Veterans, and the California Vietnam Veterans Memorial Commission for which he served as Fundraising Chairman and is credited with making that memorial a reality; and

WHEREAS, It is appropriate that the memory of this man, who never ceased to serve, who gave all, be honored by the state he graced with his talent, wit, intellect, and devotion; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That in memory of the man who devoted so much of his life to public service, in particular to the military service of his state and country, the Department of Veterans Affairs and the Department of General Services are directed, upon receiving donations from nonstate sources covering the cost thereof, to establish a bench and plaque adjacent to the California Vietnam Veterans Memorial in Capitol Park honoring B.T. Collins; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of the Department of Veterans Affairs and the Director of General Services.

RESOLUTION CHAPTER 66

Assembly Concurrent Resolution No. 64—Relative to the Juan "John" Thome Caltrans Diamond Bar Maintenance Station.

[Filed with Secretary of State August 27, 1993.]

WHEREAS, Juan "John" Thome of Walnut, California, worked in landscape maintenance for the Department of Transportation (Caltrans) in District 7 from February 11, 1980, until April 28, 1993; and

WHEREAS, Mr. Thome was born in Los Angeles on July 23, 1945, and he and his wife, Christine Thome, had a son, Dominic John Thome, and a granddaughter, Ashley Thome; and

WHEREAS, He was hired by Caltrans District 7 as a landscape

worker in 1980, and was promoted to landscape maintenance leadworker for Caltrans Foothill Maintenance Region in 1990, and he loved his work and always had a strong commitment to safety; and

WHEREAS, On April 28, 1993, while supervising a Caltrans landscape spray operation on the Pomona Freeway in Diamond Bar, California, Mr. Thome was struck and killed by an errant motorist; and

WHEREAS, Mr. Thome became the 53rd Caltrans worker to be killed on the job in the past 20 years; and

WHEREAS, During that 20-year period, 41 contractor employees also lost their lives; and

WHEREAS, In just the last year, three Caltrans District 7 employees have been killed on the job by errant drivers in Los Angeles and Ventura Counties; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Caltrans Diamond Bar maintenance station in Los Angeles County is hereby officially dedicated in honor and in memory of Juan "John" Thome; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of appropriate plaques and markers showing the special dedication, and, upon receiving donations from nonstate sources covering this 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 67

Senate Constitutional Amendment No. 15—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 26 of Article XIII thereof, relating to taxation.

[Filed with Secretary of State September 2, 1993.]

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 1993–94 Regular Session commencing on the seventh day of December 1992, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the State be amended by amending Section 26 of Article XIII thereof, as follows:

SEC. 26. (a) Taxes on or measured by income may be imposed on persons, corporations, or other entities as prescribed by law.

(b) Interest on bonds issued by the State or a local government in the State is exempt from taxes on income.

(c) Income of a nonprofit educational institution of collegiate

grade within the State of California is exempt from taxes on or measured by income if both of the following conditions are met:

(1) The income is not unrelated business income as defined by the Legislature.

(2) The income is used exclusively for educational purposes.

(d) A nonprofit organization that is exempted from taxation by Chapter 4 (commencing with Section 23701) of Part 11 of Division 2 of the Revenue and Taxation Code or Subchapter F (commencing with Section 501) of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986, or the successor of either, is exempt from any business license tax or fee measured by income or gross receipts that is levied by a county or city, whether charter or general law, a city and county, a school district, a special district, or any other local agency.

RESOLUTION CHAPTER 68

Senate Concurrent Resolution No. 12—Relative to military service credit in the Public Employees' Retirement System.

[Filed with Secretary of State September 2, 1993.]

WHEREAS, The State of California is deeply indebted to its citizens who have made untold sacrifices by serving in the armed forces; and

WHEREAS, Many veterans have continued their public service through employment in California schools and have become career civil servants following their military service; and

WHEREAS, Most of these veterans have had their retirement benefits reduced because they took time from their careers to serve in the military without receiving any retirement credit; and

WHEREAS, State members of the Public Employees' Retirement System are authorized to purchase their preemployment military service, up to a maximum of four years; and

WHEREAS, The cost of purchasing the military service is so exorbitant since the state member must not only pay the employee's share of the benefit but also all of the employer's costs plus interest; and

WHEREAS, Because of the high cost, only 100 of all the eligible veterans have been able to purchase their previous service; and

WHEREAS, A more equitable system could be developed if data could be collected to determine the costs to the state as well as the exact number of veterans eligible to participate in the program; and

WHEREAS, The Public Employees Retirement System has the necessary data and expertise; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Public Employees' Retirement System, working together with affected employee and retiree organizations,

is hereby requested to update its existing study; and be it further

Resolved, That the Public Employees' Retirement System report the results of its study, along with its recommendations on how to provide a meaningful military service credit at a reasonable cost to the employee, no later than July 1, 1994, and make the updated study available to the Legislature, upon request.

RESOLUTION CHAPTER 69

Senate Concurrent Resolution No. 14—Relative to multicultural research and education.

[Filed with Secretary of State September 2, 1993.]

WHEREAS, Despite the changing demographics of the greater Los Angeles area, there is no infrastructure to harness the emerging perspectives from diverse ethnic communities; and

WHEREAS, The communities have approached policy advocacy and community advancement from polarized perspectives that often result in increased distrust, competition, and conflict between ethnic communities; and

WHEREAS, The net effect of this conflict is uncoordinated and divisive policies that separate rather than unite; and

WHEREAS, A multicultural research and education institute composed of multicultural leaders from the academic community, government, local organizations, and business sectors would fill a current void of consensus driven leadership; and

WHEREAS, Recent efforts at building multicultural coalitions have failed due to the insufficient focus of resources and the absence of a permanent structure to conduct ongoing dialogue and applied research; and

WHEREAS, The institute would pool academic, professional, and community resources in a multicultural context to conduct planning on a myriad of public issues including economic development, race relations, education, political participation, policy analysis, and research; and

WHEREAS, There is need for a repository dedicated to the study and research of the complexities involved with rapidly growing communities of diverse racial and ethnic cultures and backgrounds; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the multicultural institute is hereby strongly recommended and supported; and be it further

Resolved, That the Senate make every effort to assist and promote this multicultural and multidisciplinary effort, including the allocation of funds, if available; and be it further

Resolved, That leaders from academic, community, government,

and business sectors are strongly encouraged to participate in the creation and establishment of the multicultural institute; and be it further

Resolved, That the multicultural institute may be funded by a variety of sources, including grants from foundations, contributions from corporations and universities, and appropriations from federal, state, local, or private sources; and be it further

Resolved, That the multicultural institute be made available for public use and enrichment.

RESOLUTION CHAPTER 70

Senate Joint Resolution No. 8—Relative to cannabis/marijuana.

[Filed with Secretary of State September 2, 1993.]

WHEREAS, Scientific and medical studies by the National Academy of Science have shown cannabis/marijuana to be a safe and effective medicine with very low toxicity compared to most prescription drugs and it has been shown to be effective in the treatment of glaucoma; epilepsy; muscle spasticity; arthritis; the nausea, vomiting, and appetite loss associated with chemotherapies; anxiety and depression; and the symptoms of withdrawal from alcohol and narcotics; and

WHEREAS, Studies show that one-third of all cancer patients discontinue potentially life-saving chemotherapy due to the severe and debilitating side effects and the same is true for many AIDS patients receiving AZT or other similar therapies; and

WHEREAS, Most physicians surveyed said that they would prescribe cannabis/marijuana if legally available, and one-half of all cancer specialists surveyed said that they have already encouraged at least one of their patients to break the law and use cannabis/marijuana to ease the violent nausea and vomiting associated with their current treatments; and

WHEREAS, In May of 1991, the United Nations Narcotic Control Board voted overwhelmingly to reclassify cannabis/marijuana, placing it back on Schedule II, and making it available by prescription, and, the United States representative to this board voted in favor of the rescheduling; and

WHEREAS, Despite a federal court order recognizing the "clearly established medical value" of cannabis/marijuana, and mandating that it be reclassified to Schedule II and made available by prescription, the federal government continues to deny access to this safe and effective medicine; and

WHEREAS, By its own admission, the federal government continues to deny access to cannabis/marijuana for political rather than medical reasons, and are using patients as pawns in the

ever-escalating war on drugs by following current policies which place message before medicine, convenience before compassion, and politics before patients; 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 appropriate legislation to permit cannabis/marijuana to be prescribed by licensed physicians and to ensure a safe and affordable supply of cannabis/marijuana for medical use; 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 71

Senate Joint Resolution No. 22—Relative to the aircraft carrier Midway.

[Filed with Secretary of State September 2, 1993.]

WHEREAS, San Diego has a lengthy history associated with the U.S. Navy and Naval Air Forces, and San Diego was shaped by the birth of aviation technology and is proudly and inextricably linked to the military's presence; and

WHEREAS, The acquisition of the aircraft carrier Midway would preserve a vital part of U.S. military history and its establishment as a museum would be a fitting memorial to San Diego's contributions to victory in World War II; and

WHEREAS, The carrier museum would add excitement to the maritime ambience of the cruise ship center, Mission Bay, Seaport Village, the shipyards, and harbor islands; and

WHEREAS, The carrier museum would be an attraction to both domestic and foreign tourists, thereby enhancing the global competitive position of the nearby convention center; and

WHEREAS, The added attraction of a carrier museum would result in longer tourist stays, with consequent increases in retail sales, hotel and motel occupancy, and restaurant patronage, resulting in higher sales and transient occupancy tax revenues; and

WHEREAS, The projected number of annual visitors to the carrier museum would exceed 700,000, bringing at least fifty million dollars ($50,000,000) in additional revenues into the regional economy; and

WHEREAS, A carrier museum could be used as an ongoing exposition to showcase San Diego's leadership in aerospace and defense technology, to develop educational programs for schoolaged

children, and to provide entertainment attractions based on naval aviation history; and

WHEREAS, The presence of a military museum in San Diego would promote positive community relations between the citizens and the military; and

WHEREAS, The aircraft carrier Midway has been recently decommissioned and is in good structural condition, and will be soon be coming up for sale as military surplus; and

WHEREAS, A group of like-minded San Diego citizens have established a nonprofit corporation and a committee to pursue the acquisition of the aircraft carrier Midway; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That in order to enhance the public's awareness of the contributions of the citizens of the State of California and the County of San Diego to military preparedness and, in particular, naval aviation history, and to enhance the region's economy by increasing tourism and creating new employment opportunities, the Legislature of the State of California endorses the efforts to acquire the aircraft carrier Midway as a permanent museum, educational, and entertainment complex to be located in San Diego Bay; and be it further

Resolved, That the Legislature of the State of California respectfully requests the President and Congress of the United States, and the Joint Chiefs of Staff of the Department of Defense, to support the efforts of the citizens of the State of California and the County of San Diego to acquire the aircraft carrier Midway; 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 72

Senate Joint Resolution No. 24—Relative to proposed Veterans Administration Hospital at Travis Air Force Base.

[Filed with Secretary of State September 2, 1993.]

WHEREAS, the United States Veterans Administration has proposed that a hospital be built next to the Department of Defense's existing David Grant Medical Center at the Travis Air Force Base in Fairfield, with construction to begin in 1994 and be completed in 1997; and

WHEREAS, the $155 million hospital, which will replace the Martinez Veterans Administration medical facility that closed last

year, will be the primary medical center for over 400,000 veterans in Northern California who, without a hospital at Travis Air Force Base, will not have access to in-patient medical care; and

WHEREAS, the proposed Veterans Administration Hospital at Travis Air Force Base would be the most cost-effective hospital that can be constructed since the land upon which the facility will be built is owned by the federal government, the hospital infrastructure is already in place at the adjacent David Grant Medical Center and there will be a sharing of common use facilities with the David Grant Medical Center; and

WHEREAS, the construction of the Veterans Administration Hospital at Travis Air Force Base adjacent to the David Grant Medical Center will create a medical complex which is able to treat many more patients together than either facility could treat separately; and

WHEREAS, the location of the proposed Veterans Administration Hospital at Travis Air Force Base is conveniently located near Interstate 80 and a proposed Amtrak/"Capitol" passenger rail station and is easily accessible to veterans from the Central Valley, the greater Bay Area and other parts of Northern California; and

WHEREAS, under the United States Base Closure Commission's 1993 military base closure process, the Northern California economy is already significantly threatened with the imminent closure of the Mare Island Naval Shipyard in Vallejo, located within 20 miles of Travis Air Force Base, and nine other military facilities; and

WHEREAS, construction of the Veterans Administration Hospital at Travis Air Force Base, and the more than 1,000 new jobs it will bring, will greatly benefit the sagging Northern California economy; and

WHEREAS, while the Veterans Administration Hospital at Travis Air Force Base has received funding for planning and design costs, actual construction funding has not yet been appropriated; 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 Secretary of the Department of Veterans Affairs and Congress of the United States to approve funding for the construction of the Veterans Administration Hospital at the Travis Air Force Base in Fairfield; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Secretary of the United States Department of Veterans Affairs, Senators Dianne Feinstein and Barbara Boxer, Congressman Dan Hamburg, and the Chairperson of the Senate Veterans Affairs Committee, the Senate Appropriations Committee, the House Veterans Affairs Committee and the House Appropriations Committee of the Congress of the United States.

RESOLUTION CHAPTER 73

Assembly Concurrent Resolution No. 19—Relative to historic U.S. Highway 99.

[Filed with Secretary of State September 3, 1993.]

WHEREAS, For many years, U.S. Highway 99 was the main west coast north-south thoroughfare, extending from Canada to Mexico; and

WHEREAS, Beginning in the mid 1960s, with the construction of Interstate Route 10, then Interstate Route 5, the functions of U.S. Highway 99 were gradually taken over by Routes 5 and 10, and U.S. Highway 99 was decertified from the federal highway system, becoming instead a state highway except for those segments that were upgraded to become part of Routes 5 and 10; and

WHEREAS, In 1992, the final segment of former U.S. Highway 99 scheduled for inclusion in Route 5 had its reconstruction completed so that the entire statewide length of Route 5 will meet interstate highway standards; and

WHEREAS, Though supplanted as the state's primary north-south highway, segments of the original U.S. Highway 99 remain, although many are no longer identified as such; and

WHEREAS, Old U.S. Highway 99 served as the main street of many California cities and towns along its length and, though no longer so designated, these sections represent both state and local historic significance; and

WHEREAS, It is fitting that a means to designate these historic sections of former U.S. Highway 99 be established; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the remaining sections of former U.S. Highway 99 are hereby recognized for their historical significance and importance in the development of California; and be it further

Resolved, That the Department of Transportation is requested, upon application by local agencies or private groups, to identify any section of former U.S. Highway 99 which is still a publicly maintained highway but is not designated as having formerly been U.S. Highway 99 that is of interest to an applicant agency or group, and to designate that section of highway as "historic U.S. Highway 99"; and be it further

Resolved, That the department is requested to determine the cost of appropriate highway markers or signs consistent with signing requirements for the state highway system showing the special designation and, upon receiving donations from nonstate sources concerning that cost, to erect those highway markers or signs on the portions of former U.S. Highway 99 that are part of the state highway system ; 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 74

Assembly Concurrent Resolution No. 21—Relative to the Ted Williams Freeway.

[Filed with Secretary of State September 3, 1993.]

WHEREAS, Ted Williams achieved national recognition for his outstanding career in professional baseball; and

WHEREAS, Ted Williams was born in San Diego in 1910, and played varsity baseball at Herbert Hoover High School in that city; and

WHEREAS, Ted Williams began his professional baseball career in 1936 at the age of 17, when he began playing for the San Diego Padres of the Pacific Coast League; and

WHEREAS, Ted Williams played for the Boston Red Sox for a total of 19 seasons; and

WHEREAS, Ted Williams was named most valuable player for the 1946 and 1949 seasons; and

WHEREAS, Three times in his career, Ted Williams earned baseball's Triple Crown for best batting average, most home runs, and most runs batted in; and

WHEREAS, Ted Williams' batting average for the 1941 season was .406, which is the last time a contemporary player's average has surpassed .400; and

WHEREAS, Ted Williams interrupted his baseball career to serve his country in the armed forces in World War II and the Korean War; and

WHEREAS, Ted Williams retired from playing professional baseball in 1960 at the age of 42, hitting a home run on his final turn at bat; and

WHEREAS, In 19 seasons with the Boston Red Sox, Ted Williams' career achievements include 521 home runs, 1839 runs batted in, and a batting average of .344; and

WHEREAS, It is desired by the people of San Diego to commemorate the achievements of Ted Williams by the naming of a freeway in his honor; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That State Highway Route 56 from the junction of Interstate 5 to the junction of Interstate 15 in the City of San Diego is hereby designated the Ted Williams Freeway; and be it further

Resolved, That the Department of Transportation is hereby requested to determine the cost of appropriate signs, consistent with the signing requirements for the state highway system, showing this official designation and, upon receiving donations from private

sources to cover this cost, to erect those signs; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to Ted Williams and the Director of Transportation.

RESOLUTION CHAPTER 75

Assembly Concurrent Resolution No. 22—Relative to the Eric Seastrand Memorial Highway.

[Filed with Secretary of State September 3, 1993.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the portion of State Highway Route 46 between the cities of Paso Robles and Cambria is hereby officially designated the Eric Seastrand Memorial Highway; 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 76

Assembly Concurrent Resolution No. 24—Relative to historical landmarks.

[Filed with Secretary of State September 3, 1993.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Transportation is requested to grant to the Nevada County Historical Landmarks Commission, without charge, an encroachment permit that will authorize an appropriate historical plaque dedicated to Elisha Stephens to be placed within the right-of-way of Interstate Highway Route 80 at the Donner Lake Overlook area, west of the agricultural inspection station near the Town of Truckee; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Director of Transportation and to the chairperson of the Nevada County Historical Landmarks Commission.

RESOLUTION CHAPTER 77

Assembly Concurrent Resolution No. 34—Relative to the terminally ill.

[Filed with Secretary of State September 3, 1993.]

WHEREAS, Most people are more afraid of the suffering associated with terminal illness than they are afraid of dying itself; and

WHEREAS, Unrelieved suffering is also the primary reason for requesting physician aid-in-dying; and

WHEREAS, The issue of how best to care for those at end-of-life will not be determined until some fundamental changes occur in the delivery of health care in California and the United States; and

WHEREAS, A good number of our health care providers lack the knowledge and the skills to treat pain and other symptoms of terminal disease properly; and

WHEREAS, The California Senior Legislature has acknowledged a need to increase training in pain management and palliative care techniques for physicians treating terminal patients and the California Senior Legislature has recognized that pain at end-of-life encompasses not only physical but also psychological, social, and spiritual pain when treating end-of-life; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Medical Board of California is requested to conduct and complete a survey within one year after adoption of this resolution, of existing medical school curriculum to determine whether medical students receive adequate training in pain management and palliative care techniques for the terminally ill; and be it further

Resolved, That the Medical Board of California is requested to make a determination whether physician and surgeons adequately understand pain management and palliative care techniques for the terminally ill; and be it further

Resolved, That the Medical Board of California is requested to recommend and report to the Legislature within two months after completion of the survey necessary modifications in the medical school curriculum to ensure that physician and surgeons are adequately trained in pain management and palliative care techniques for the terminally ill; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor and Medical Board of California.

RESOLUTION CHAPTER 78

Assembly Concurrent Resolution No. 48—Relative to additional merit awards to certain state employees.

[Filed with Secretary of State September 3, 1993.]

WHEREAS, An award of $5,000 has already been made to Fred R. Raleigh, State Department of Mental Health, for a proposal, resulting in actual statewide savings of $858,653, for recommending that the procurement process for pharmaceutical products be reorganized under a primary vendor that would provide the majority of the state's institutional needs for generic and proprietary pharmaceuticals; and

WHEREAS, An award of $5,000 has already been made to Stephen P. O'Brien, Department of Parks and Recreation, for a proposal, resulting in actual statewide savings of $5,668,939, for recommending that a large body of sulfide tailings located at the Empire Mine State Historic Park in Grass Valley be processed, the gold and contaminants removed, and the profit given to the state and the Department of Parks and Recreation for further development of Empire Mine State Historic Park and other historic parks; and

WHEREAS, An award of $5,000 has already been made to Harland Ross of the Public Employees' Retirement System, for a proposal resulting in actual interest received by the Public Employees' Retirement System of $2,441,760, for discovering interest due on four specific bonds that had not been claimed; and

WHEREAS, These employees' proposals have resulted in actual savings of $8,969,352; and

WHEREAS, As a result of these savings and increased revenue, it is unnecessary to appropriate additional funds for payment of awards to these employees; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate 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: Fred R. Raleigh, $46,665, Harland Ross, $115,000, and Stephen P. O'Brien, $278,447; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Controller and the Department of Personnel Administration.

RESOLUTION CHAPTER 79

Assembly Joint Resolution No. 14—Relative to expenditure of surplus airport revenues.

[Filed with Secretary of State September 3, 1993.]

WHEREAS, Los Angeles International Airport is a successful public facility and a valuable public resource to the people of Los Angeles; and

WHEREAS, The voters of Los Angeles, on November 3, 1992, approved an amendment to the Los Angeles City Charter which lifts longstanding charter restrictions on the use of surplus airport revenues for off-airport purposes; and

WHEREAS, These restrictions were imposed half a century ago, during a period when Mines Field, then a modest regional airfield, needed major infusions of revenue to finance its upgrading to a full-fledged commercial airport, and airport operating profits were the first obvious source for these funds; and

WHEREAS, The federal government intervened via the Airport and Airway Improvement Act of 1982, which further restricted the use of operating revenues to onsite uses at airports accepting federal grant moneys, such as Los Angeles International Airport and San Francisco International Airport; and

WHEREAS, Los Angeles International Airport has long been a booming success and no longer requires such artificial restriction to guarantee its continued healthy operation and growth; and

WHEREAS, The Los Angeles City Department of Airports is a proprietary, quasi-independent management entity whose careful decisions and policymaking will ensure that the administrative, operational, capital improvement, and maintenance needs of Los Angeles International Airport and the other airports under its jurisdiction are its foremost concern; and

WHEREAS, The Los Angeles City Charter amendment further ensures that no airport moneys may be considered for use offsite until all airport needs are met; and

WHEREAS, Prohibitions in the Airport and Airway Improvement Act of 1982 must be removed by Congress or the executive branch of the federal government in order to permit the full functioning of the charter amendment; 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 amend the Airport and Airway Improvement Act of 1982 to provide (Section 2208, Title 49 Appendix, United States Code), either nationally or specifically with regard to airports owned by the City of Los Angeles and the City and County of San Francisco, that the local agency with jurisdiction may determine airport surplus revenues to be unnecessary for the administrative, operational,

capital improvement, and maintenance needs of an airport in any given budgeting period, and may make those revenues available to meet other legitimate airport-related needs of the local jurisdiction; 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 Chairperson of the Federal Aviation Administration, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 80

Assembly Joint Resolution No. 32—Relative to solid waste.

[Filed with Secretary of State September 3, 1993.]

WHEREAS, Under federal tax policy, solid waste disposal facilities are eligible for tax-exempt financing, but facilities utilizing recovered materials are not; and

WHEREAS, The special tax treatment of solid waste disposal facilities may discourage the siting and construction of facilities utilizing recovered materials in favor of solid waste disposal facilities; and

WHEREAS, The preferential tax treatment for solid waste disposal facilities contradicts the Environmental Protection Agency's Solid Waste Management Hierarchy, which favors source reduction, reuse, and recycling activities over disposal activities in an integrated waste management strategy; and

WHEREAS, Federal tax policy also determines eligibility for California Pollution Control Financing Authority (CPCFA) financing, and facilities utilizing recovered materials are currently ineligible for that financing; and

WHEREAS, One method to make facilities utilizing recovered materials eligible for CPCFA tax-exempt financing is to modify their federal tax status to allow those facilities utilizing at least 50 percent secondary materials, whether they are manufacturing, processing, or collection facilities, to be eligible for tax-exempt financing equivalent to the tax-exempt financing available to entities operating under the solid waste facilities tax exemption; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California urges that the federal definition of solid waste facilities for tax treatment purposes be modified to allow facilities utilizing recovered materials to be eligible for tax-exempt financing; 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 81

Senate Concurrent Resolution No. 13—Relative to the Pearl Harbor Survivors Memorial Highway.

[Filed with Secretary of State September 9, 1993.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the portion of State Highway Route 99 between the City of Tulare and the City of Fresno is hereby officially designated the Pearl Harbor Survivors Memorial Highway; 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 82

Senate Concurrent Resolution No. 24—Relative to Italian-American History Month.

[Filed with Secretary of State September 9, 1993.]

WHEREAS, Italian-Americans have contributed greatly to making the United States the world's greatest nation; and

WHEREAS, Italian-Americans have made the United States a better place to live by giving their expertise, energy, and enthusiasm in areas as diverse as public life, business, music, sports, cinema, and science; and

WHEREAS, Among the Italian-Americans making major contributions in the area of public life are Philip Mazzei, Fiorello LaGuardia, Peter Rodino, Judge John Sirica, Mario Cuomo, Joseph E. Dini, Jr., William J. Raggio, and Frankie Sue Del Papa; and

WHEREAS, Among the Italian-Americans making major contributions in the area of business are Lee Iacocca, A. P. Giannini, Andrea Sbarbaro, and Jeno Paulucci; and

WHEREAS, Among the Italian-Americans making major

contributions in the area of music are Arturo Toscanini, Frank Sinatra, Tony Bennett, Frank Zappa, Dean Martin, Henry Mancini, and Perry Como; and

WHEREAS, Among the Italian-Americans making major contributions in the area of sports are Joe DiMaggio, Rocky Marciano, Vince Lombardi, Linda Fratianne, Tommy LaSorda, and Joe Montana; and

WHEREAS, Among the Italian-Americans making major contributions in the area of cinema are Anne Bancroft, Frank Capra, Francis Ford Coppola, Martin Scorcese, Sylvester Stallone, Robert De Niro, Al Pacino, and Annette Funicello; and

WHEREAS, Among the Italian-Americans making major contributions in the area of science are Pietro Rossi, Enrico Fermi, Emilio Segre, and Salvador Luria; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Members of the California Legislature, recognizing the role of Italian-Americans in the growth and development of California, designate the month of October as Italian-American History Month; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 83

Senate Joint Resolution No. 20—Relative to pest containment and quarantine facilities.

[Filed with Secretary of State September 9, 1993.]

WHEREAS, The discovery of a virulent species of whitefly that attacks most crops, continued outbreaks of Mediterranean and Mexican fruit flies in many parts of the state, extensive damage to grapestocks by phylloxera, and the imminent arrival of Africanized honey bees join a growing list of pests and diseases that threaten the long-term health and economic vitality of California agriculture; and

WHEREAS, Farmers in California and across the United States are faced with the wholesale loss of many of the synthetic pesticides and chemicals that they have relied upon for control and eradication of pests; and

WHEREAS, Recent studies of available pest management alternatives conducted by the University of California and others reveal that economically viable and environmentally compatible alternatives are not yet available for many pesticides and chemicals; and

WHEREAS, Insect and microbial pests are showing increased resistance to many of the compounds which remain on the market; and

WHEREAS, Research into promising new pest management technologies and strategies has met with some success over the past decade, most notably in the areas of integrated pest management, biological control, and bioengineering; however, nothing short of a major expansion and acceleration of research focusing on long-range solutions is required; and

WHEREAS, California agriculture is not only in danger of losing the ongoing battle against pests with subsequent reductions in the quality of food and fiber produced, but could see access to many foreign markets closed or severely restricted with significant negative impacts to the state's economy; and

WHEREAS, The Conference Report from the United States House and Senate Agricultural Appropriations Subcommittees for the 1991 fiscal year, in response to the challenges cited above, directed the United States Department of Agriculture (USDA) to conduct a study of alternative pest management containment and quarantine facility needs in California; and

WHEREAS, A USDA facility study panel visited the Davis and Riverside campuses of the University of California in June 1991 and concluded their report with the recommendation that construction of these facilities "could have a significant [positive impact on U.S. agriculture"; and

WHEREAS, The University of California, in cooperation with the USDA, the California Department of Food and Agriculture, commodity groups, and other interested parties, is proposing the construction of modern, environmentally secure, alternative pest management containment and quarantine facilities at the Riverside and Davis campuses; and

WHEREAS, These modern containment and quarantine facilities, once operational, would support a comprehensive, integrated program designed to draw upon the breadth of university, state, and federal expertise within California and the nation; and

WHEREAS, Construction of the proposed facilities would provide significant, long-term benefits to growers, ranchers, environmentalists, and consumers as a result of research leading to reduced applications of pesticides and other chemicals and acceptance and expanded use of biological control agents, genetically engineered organisms, and other "cutting-edge" technologies; and

WHEREAS, The combined resources of this federal-state partnership would permit a focused, mission-oriented research program on a scale not otherwise possible; and

WHEREAS, This federal-state partnership for agricultural research has led to significant breakthroughs and advances over the past century to the benefit of every American consumer; and

WHEREAS, This research also has helped build an export industry that generates billions of dollars annually in net income to the economy of the United States; and

WHEREAS, The Congress already has provided funding in the

USDA Cooperative State Research Service budget for the 1992 and 1993 fiscal years for predesign work associated with the proposed facilities at the Davis and Riverside campuses; and

WHEREAS, This funding has been matched by the University of California; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Congress and the President of the United States are respectfully memorialized to support the construction of modern, state-of-the-art, alternative pest management containment and quarantine facilities in California; and be it further

Resolved, That, beginning in the 1994 fiscal year, the Congress provide construction funds on a cost-share basis with the State of California for a 21,400 assignable square foot laboratory and support facility at the University of California, Riverside, to accelerate research leading to the development of biological and other natural controls for the whitefly and other pests; and be it further

Resolved, That, beginning in the 1994 fiscal year, the Congress provide construction funds on a cost-share basis with the State of California for a 40,000 assignable square foot containment and quarantine facility at the University of California Davis, that will support research into environmentally compatible pest management strategies, including bioengineering, genetically altered organisms, and other promising biotechnology applications; and be it further

Resolved, That Congress appropriate adequate funds, beginning in the 1994 fiscal year, to allow construction to be sequenced, with the biological control laboratory at Riverside proposed for completion by the 1996 fiscal year and the biotechnology and bioengineering containment facility at Davis proposed for completion during the 1997 fiscal year; 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 Majority Leader of the United States Senate, and to the United States Secretary of Agriculture.

RESOLUTION CHAPTER 84

Assembly Concurrent Resolution No. 33—Relative to the Public Procurement Advisory Committee.

[Filed with Secretary of State September 10, 1993.]

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 collectively expend in excess of $4 billion ($4,000,000,000) annually in procurement categories such as construction, electronic data-processing and telecommunications, supplies, and physical and consulting services, exclusive of the indirect costs of procurement personnel; and

WHEREAS, In 1983, the Public Procurement Advisory Committee was created to study, investigate, and analyze state public procurement of goods, services, and systems in 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, in 1989, until January 31, 1991, and in 1991, until January 31, 1993, with the provision that in order to ensure cost savings in state procurement, as well as to assure acquisition of the highest quality of products, services, and systems at the most competitive price, 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:

(a) 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, in order to achieve objectives that may include, but not be limited to, the following:

(1) Developing recommendations to reorganize, simplify, and streamline statutes relating to procurement of goods, services, and construction.

(2) Shortening and streamlining the procurement process, where feasible, from conception to realization, in order to keep bid specifications current and costs down, particularly in the area of electronic data-processing and telecommunications procurement.

(3) Maximizing business and employment opportunities through public contracting in the state.

(4) Exploring specific strategies to increase the state's capacity to procure state-of-the-art technology, facilitate systems integration, and increase operations efficiency, while trimming bottom line costs.

(5) Exploring the potential for maximizing California's procurement dollars through cooperative purchasing with local government sectors.

(b) The Public Procurement Advisory Committee shall be reconstituted to include recognized leaders in the procurement community in California as well as private sector vendors. 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 of the committee shall consist of the following:

(1) A Member of the Senate.

(2) A Member of the Assembly.

(3) Three committee members designated by the Senate Committee on Rules.

(4) Three committee members designated by the Speaker of the Assembly.

(5) Three committee members designated by the Governor.

(6) One committee member designated by the Director of the Department of General Services.

(7) One committee member designated by the Director of the Department of Transportation.

(8) One committee member designated by the Director of the Department of Corrections.

(9) One committee member designated by the Trustees of the California State University.

(10) One committee member designated by the Regents of the University of California.

(11) One committee member designated by the Commission on California State Government Organization and Economy.

(c) Members of the Public Procurement Advisory Committee shall serve without compensation.

(d) 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).

(e) 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, 1995.

RESOLUTION CHAPTER 85

Assembly Concurrent Resolution No. 61—Relative to Pollution Prevention Week.

[Filed with Secretary of State September 14, 1993.]

WHEREAS, California is in favor of a clean and safe environment; and

WHEREAS, Pollution prevention is a new approach to environmental protection that focuses on waste prevention, and is therefore the most favorable and progressive strategy for protecting our environment; and

WHEREAS, Pollution prevention can increase efficiency and save

businesses money; and

WHEREAS, Pollution prevention offers both environmental protection and increased competitiveness; and

WHEREAS, By focusing attention on pollution prevention, California will meet the challenges of the 90's for economic competitiveness and environmental protection; and

WHEREAS, Pollution Prevention Week is an opportunity for government, industry, and environmental groups to celebrate the potential of pollution prevention and to work together to plan for a prosperous and sustainable future; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the period from October 4 to October 10, 1993, is hereby designated Pollution Prevention Week and that California does hereby urge all citizens, as well as representatives of and business and government, to participate in local and regional celebratory and educational activities in observance of this week; and be it further

Resolved, That the Chief Clerk of the Assembly shall transmit copies of this resolution to the Governor and to the Secretary for Environmental Protection.

RESOLUTION CHAPTER 86

Assembly Concurrent Resolution No. 65—Relative to San Pedro.

[Filed with Secretary of State September 14, 1993.]

WHEREAS, September 9, 1993, will mark the 143rd anniversary of California's admission to the union of the United States of America; and

WHEREAS, Prior to statehood, California's existence as an independent republic was made possible by the landing of American troops at the Port of San Pedro during the war with Mexico; and

WHEREAS, San Pedro's colorful history from Spanish California though the present day reflects that of California itself; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the California Legislature officially recognize the important role played by San Pedro in the history of the state since the arrival of Europeans in the 16th century; and be further

Resolved, That the Legislature encourages its members and staff to inform our citizens about the role played by San Pedro and other historic areas in California.

RESOLUTION CHAPTER 87

Assembly Joint Resolution No. 3—Relative to extending statehood to Washington, D.C.

[Filed with Secretary of State September 14, 1993.]

WHEREAS, The American Revolution and War for Independence was ultimately declared citing the principle "taxation without representation is tyranny," and there are nearly 650,000 taxpaying American citizens in the District of Columbia who have no federal voting representation in Congress; and

WHEREAS, Of the 117 countries in the world with elected national legislatures, the United States stands alone in depriving the residents of its capital a voice and a vote in our national legislative body; and

WHEREAS, District of Columbia residents pay more federal income tax per capita than the residents of 48 states, and more in local taxes than the residents of any state in the country; and

WHEREAS, The District of Columbia's per capita income is $32,000, exceeding the national average by 42 percent and is well positioned for growth as a leader in a number of service industries, for example, law, business services, communications, and tourism; and

WHEREAS, District of Columbia residents serve disproportionately in the military; have served in all wars since the War for Independence and during the Vietnam War, had more casualties than 10 states and more casualties per capita than 47 states; and

WHEREAS, The District of Columbia sent more soldiers to the Persian Gulf than 20 states (more per capita than all but four states), and yet had no voting representation on the floor of the House of Representatives or Senate when Congress approved military involvement; and

WHEREAS, There is no constitutional prohibition against creating the State of New Columbia out of nonfederal parts of the District of Columbia, and the District of Columbia meets all statehood requirements traditionally imposed by Congress; and

WHEREAS, The District of Columbia has 639,000 residents, nearly as many or more residents than six states: Wyoming (465,000), Alaska (552,000), Vermont (565,000), North Dakota (641,000), Delaware (669,000), and South Dakota (699,000) with each state possessing two Senators; and

WHEREAS, Historically, statehood has been granted when three criteria were met: (1) the people, through some democratic process, express their desire to become a state; (2) the people accept the republican form of government required by the United States Constitution and practiced in the United States; and (3) there are sufficient people and economic resources to support a state; and

WHEREAS, District of Columbia residents have democratically expressed their desire to become a state through passage of a statehood referendum (November 1980); approval of a Constitution by district delegates (May 1982); transmittal of the Constitution and a petition for statehood (September 1983) to Congress; and in the tradition of Tennessee in 1796, election of their own statehood delegation to appeal to Congress to accept their petition for admission to the Union as the 51st state; and

WHEREAS, Statehood will provide District of Columbia residents with federal voting representation, as well as local legislative, budgetary, and judicial autonomy; 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 to extend statehood to Washington, D.C.; 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 88

Assembly Joint Resolution No. 35—Relative to speed limits.

[Filed with Secretary of State September 14, 1993.]

WHEREAS, Congress enacted the uniform, nationwide 55 mile-per-hour speed limit during the energy crisis in 1973, in order to heighten public awareness of energy conservation; and

WHEREAS, Motor vehicles have become substantially more fuel-efficient in the last 20 years as manufacturers have reacted both to public demand and economic considerations; and

WHEREAS, Congress subsequently authorized the states to increase speed limits to 65 miles per hour on rural interstate freeways and other rural freeways constructed to interstate standards; and

WHEREAS, The remaining federal restrictions on the states appear increasingly arbitrary, unproductive, and unenforceable, as they, among other things, require speed limits to change whenever a freeway passes through the urban boundaries of a city with a population of 50,000 or more, regardless of whether that change has any safety rationale; and

WHEREAS, The states are the owners and operators of the highway systems and are in a better position than federal regulators to determine the most appropriate and safe maximum speed for each highway segment; and

WHEREAS, In a time of economic hardship and limited

governmental resources it simply makes sense to allow each state to devote traffic law enforcement resources to the highest priorities, in order to save the maximum number of lives; and

WHEREAS, The federal sanctions that could be imposed on the states for not meeting average speed targets set by the Federal Highway Administration would only have a negative impact on public safety because the impact of the sanctions would be to withhold highway funds from important highway improvement projects that enhance highway safety; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California requests the Congress to authorize the states to implement speed limits of up to 65 miles per hour on any highway or freeway where such a speed limit would be appropriate, prudent, and safe, as determined by each state; 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 each Representative and Senator from California in the Congress of the United States, to the Chairpersons of the Committee on Public Works and Transportation in the House of Representatives and the Committee on Commerce, Science, and Transportation in the Senate, and to the Secretary of Transportation.

RESOLUTION CHAPTER 89

Assembly Concurrent Resolution No. 30—Relative to Multicultural Awareness Month.

[Filed with Secretary of State September 15, 1993.]

WHEREAS, California has historically been a culturally diverse and pluralistic society. From the indigenous people to the earliest pioneers who were African, Asian, Latino, and American seekers of gold to the Middle Easterners, Asians, Europeans, Latinos, Africans and people of mixed heritages who have sought the promise of expansion and prosperity, in California represents a land of opportunity; and

WHEREAS, As the "State of the World," California offers its people an opportunity to celebrate the diversity of human expression through its multiethnic arts and cultures. Through the celebrations of multicultural expressions in the arts, Californians gain a greater curiosity and understanding of other people; and

WHEREAS, The National Assembly of Local Arts Agencies and a coalition of 42 national arts and humanities associations representing over 23,000 cultural organizations as well as the United States Conference of Mayors have designated October as National Arts and Humanities Month in order to encourage active participation in the

arts and humanities throughout the nation; and

WHEREAS, The President has announced his intention to recognize October as a time for all Americans to celebrate the creative diversity of our nation in all its artistic manifestations; and

WHEREAS, The California Arts Council supports and promotes cultural diversity and encourages visitation and support of community arts programs in California, many of which reflect California's multicultural diversity; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature declares the month of October "Multicultural Awareness Month." The people of California are encouraged to take advantage of California Arts Council and other programs that encourage access to the arts and to participate in programs in schools, museums, theatres, community centers, arts agencies, festivals and fairs and to attend music, dance, and theatre events that celebrate the myriad cultural and artistic expressions of a multiracial, multiethnic humanity.

RESOLUTION CHAPTER 90

Assembly Concurrent Resolution No. 53—Relative to the Renaissance Program.

[Filed with Secretary of State September 15, 1993.]

WHEREAS, Since its establishment in 1988 at a high school in Conway, South Carolina, the Renaissance Program has been adopted by at least one school in each of the 50 states; and

WHEREAS, Use of the term "renaissance" represents a new national commitment to excellence in education; and

WHEREAS, The Renaissance Program is a process that involves collaboration between businesses, the educational community, and the community at large to explore ways for children to experience the joy of learning and to recognize educators as dedicated professionals; and

WHEREAS, The schools that have established a Renaissance Program have as their purpose the attainment of five attributes: promotion of academic achievement; dynamic, innovative, and courageous leadership; leadership that believes in, and is committed to, participative management; an academic, performance-based system of rewards and incentives; and established partnerships with local businesses, civic organizations, and community groups; and

WHEREAS, The program raises self-esteem and self-worth in pupils by giving positive rewards for achieving goals at all performance levels, and by encouraging community and corporate partnerships with schools to inspire and reward learning; and

WHEREAS, Over 100 schools in California have adopted the

program; all of those schools have experienced increases in grade point averages, achievement test scores, and in daily attendance, and have experienced a decrease in disciplinary problems and in the dropout rate; and

WHEREAS, At a time when schools are under tremendous stress from criminal and gang activity, the adoption of the Renaissance Program in every school would provide a source of inspiration for all pupils; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby recognizes the success of the Renaissance Program in participating schools across the country and, therefore, encourages other schools in California to adopt the program; and be it further

Resolved, That those Members of the Assembly and the Senate who wish to do so transmit a copy of this resolution to each school district in their respective district.

RESOLUTION CHAPTER 91

Assembly Joint Resolution No. 29—Relative to the National Training Center.

[Filed with Secretary of State September 15, 1993.]

WHEREAS, The national security interests of the United States are constantly changing in response to changing world conditions and threats; and

WHEREAS, The Armed Forces of the United States must adapt to these changing circumstances and train to respond to them with resourcefulness and innovation; and

WHEREAS, As demonstrated during Operation Desert Storm, weapons systems have undergone great changes in effectiveness, speed, and range, since the opening of the National Training Center (NTC) in 1981; and

WHEREAS, Beginning in 1985, the United States Army and the NTC have continuously evaluated and analyzed training requirements, thereby identifying the need to acquire 238,000 additional maneuver acres adjoining the NTC for realistic task force training at Fort Irwin, California located in San Bernardino County; and

WHEREAS, Since 1986 in consultation with the United States Fish and Wildlife Service, the Bureau of Land Management, the California Department of Fish and Game, other regulatory agencies, university researchers, and representatives of concerned environmental organizations, the army has conducted extensive, ongoing, environmental studies to determine which lands adjoining the NTC would meet the training requirement while minimizing

impacts on flora, fauna, and the human environment; and

WHEREAS, Since 1987 the army has monitored and analyzed real estate market conditions to help identify the least expensive configuration of lands meeting both training mission and environmental compatibility goals; and

WHEREAS, The army's record of training in an ever-improving, environmentally responsible manner at the NTC has attracted international interest and recognition as evidenced by the request of cabinet level officials of the Republic of Mexico to visit the NTC for onsite inspection of current environmental activities and discussion of future plans and programs; and

WHEREAS, The army's innovative environmental programs at the NTC have also attracted national interest and recognition as demonstrated by the recent visit by officials of the National Geographic Society for onsite inspections of current environmental activities and discussion of future plans and programs; and

WHEREAS, The army's record of environmental progress and successes at the NTC has been recognized by the environmental community locally as evidenced by the NTC receiving the 1992 Conservation Award from the Los Serranos Group, San Gorgonio chapter of the Sierra Club at the annual local Sierra Club Founders Day dinner ceremony in Claremont, California for efforts in exploring geothermal energy, as an alternative fuel source; and

WHEREAS, Based on review of environmental research and consideration of the army's identified land requirement, Dr. David Morafka, internationally respected biologist and Director of the Pan-American Laboratory for Systematics at California State University at Dominguez Hills, independently concluded in January 1993 that acquisition of lands to the east of Fort Irwin in the Silurian Valley, now known as the Silurian Valley alternative, constitutes the most environmentally preferable land configuration to meet the army's requirements; and

WHEREAS, Analysis of overall project costs for the land configuration recommended by Dr. Morafka concluded that the environmentally preferable land configuration is also the least expensive and most cost-effective for the taxpayers of all acquisition alternatives previously presented to the public for review and comment during scoping meetings and opportunities; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature commends the army for its resourcefulness and diligence in seeking to accomplish its training mission at the National Training Center while upholding high standards of environmental stewardship; and be it further

Resolved, That the Legislature acknowledges and supports the army's need to obtain an additional 238,000 net maneuverable acres for training use; and be it further

Resolved, That the Legislature concurs with the army's goals of acquiring the needed maneuver acreage in the most

environmentally responsible, cost-effective manner; and be it further

Resolved, That the Legislature endorses the Silurian Valley plan as the acquisition alternative that best balances the requirements of mission needs, environmental stewardship, and cost-effectiveness for the taxpayers; and be it further

Resolved, That the Legislature respectfully memorializes the Base Realignment and Closure Commission, the President, and the Congress of the United States, to similarly support and endorse the Silurian Valley plan as the most progressive effort to meet the objective of providing for the national defense while maintaining high standards of environmental stewardship; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor, to each member of the Base Realignment and Closure Commission, to the President and Vice President of the United States, to the Secretary of Defense, 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 92

Assembly Constitutional Amendment No. 8—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending subdivision (c) of Section 2 of Article XIII A thereof, relating to taxation.

[Filed with Secretary of State September 15, 1993.]

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 1993–94 Regular Session commencing on the seventh day of December 1992, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the State be amended by amending subdivision (c) of Section 2 of Article XIII A thereof, to read:

(c) For purposes of subdivision (a), the Legislature may provide that the term "newly constructed" shall not include any of the following:

(1) The construction or addition of any active solar energy system.

(2) The construction or installation of any fire sprinkler system, other fire extinguishing system, fire detection system, or fire-related egress improvement, as defined by the Legislature, which is constructed or installed after the effective date of this paragraph.

(3) The construction, installation, or modification on or after the effective date of this paragraph of any portion or structural component of a single or multiple family dwelling which is eligible for the homeowner's exemption if the construction, installation, or

modification is for the purpose of making the dwelling more accessible to a severely disabled person.

(4) The construction or installation of seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies, which are constructed or installed in existing buildings after the effective date of this paragraph. The Legislature shall define eligible improvements. This exclusion does not apply to seismic safety reconstruction or improvements which qualify for exclusion pursuant to the last sentence of the first paragraph of subdivision (a).

(5) The construction, installation, removal, or modification on or after the effective date of this paragraph of any portion or structural component of an existing building or structure if the construction, installation, removal, or modification is for the purpose of making the building more accessible to, or more usable by, a disabled person.

RESOLUTION CHAPTER 93

Senate Constitutional Amendment No. 4—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending subdivision (a) of Section 2 of Article XIII A thereof, relating to taxation.

[Filed with Secretary of State September 17, 1993.]

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 1993–94 Regular Session commencing on the seventh day of December 1992, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the State be amended by amending subdivision (a) of Section 2 of Article XIII A thereof, to read:

(a) The full cash value means the county assessor's valuation of real property as shown on the 1975–76 tax bill under "full cash value" or, thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment. All real property not already assessed up to the 1975–76 full cash value may be reassessed to reflect that valuation.

For purposes of this section, "newly constructed" does not include any of the following:

(1) Real property that is reconstructed after a disaster, as declared by the Governor, where the fair market value of the real property, as reconstructed, is comparable to its fair market value prior to the disaster.

(2) That portion of reconstruction or improvement to a structure, constructed of unreinforced masonry bearing wall construction,

necessary to comply with any local ordinance relating to seismic safety during the first 15 years following that reconstruction or improvement.

(3) That portion of any improvement to real property that consists of the installation of water conservation equipment, as defined by the Legislature, for agricultural use.

The Legislature may provide that under appropriate circumstances and pursuant to definitions and procedures established by the Legislature, any person over the age of 55 years who resides in property which is eligible for the homeowner's exemption under subdivision (k) of Section 3 of Article XIII and any implementing legislation may transfer the base year value of the property entitled to exemption, with the adjustments authorized by subdivision (b), to any replacement dwelling of equal or lesser value located within the same county and purchased or newly constructed by that person as his or her principal residence within two years of the sale of the original property. For purposes of this section, "any person over the age of 55 years" includes a married couple one member of which is over the age of 55 years. For purposes of this section, "replacement dwelling" means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, and any land on which it may be situated. For purposes of this section, a two-dwelling unit shall be considered as two separate single-family dwellings. This paragraph shall apply to any replacement dwelling which was purchased or newly constructed on or after November 5, 1986.

In addition, the Legislature may authorize each county board of supervisors, after consultation with the local affected agencies within the county's boundaries, to adopt an ordinance making the provisions of this subdivision relating to transfer of base year value also applicable to situations in which the replacement dwellings are located in that county and the original properties are located in another county within this state. For purposes of this paragraph, "local affected agency" means any city, special district, school district, or community college district which receives an annual property tax revenue allocation. This paragraph shall apply to any replacement dwelling which was purchased or newly constructed on or after the date the county adopted the provisions of this subdivision relating to transfer of base year value, but shall not apply to any replacement dwelling which was purchased or newly constructed before November 9, 1988.

The Legislature may extend the provisions of this subdivision relating to the transfer of base year values from original properties to replacement dwellings of homeowners over the age of 55 years to severely disabled homeowners, but only with respect to those replacement dwellings purchased or newly constructed on or after the effective date of this paragraph.

RESOLUTION CHAPTER 94

Senate Concurrent Resolution No. 19—Relative to military airspace.

[Filed with Secretary of State September 17, 1993.]

WHEREAS, Edwards Air Force Base Flight Test Center, the Naval Air Warfare Center Weapons Division, Naval Air Weapons Station China Lake, and the Army National Training Center, Fort Irwin, have been preeminent in the development and testing of new and vital military aviation technology and weapons systems for the past five decades; and

WHEREAS, The airspace (including Restricted Airspace numbers 2502, 2505, 2506, 2508, 2509, 2515, and 2524) surrounding Edwards Air Force Base Flight Test Center, the Naval Air Warfare Center Weapons Division, Naval Air Weapons Station China Lake, and the Army National Training Center, Fort Irwin, above hundreds of thousands of sparsely populated acres of desert and mountainous terrain, is indispensable as a testing area for new and vital military technology and weapons systems, offering the unique and necessary variety of terrain ranging from flat dry lake beds to sheer mountains; and

WHEREAS, Leading-edge military aviation technology, research, and testing focus on low-level flight at night and in all weather conditions to enhance the survivability of aircrews; the diversity of the terrain contained within the airspace surrounding Edwards Air Force Base Flight Test Center, the Naval Air Warfare Center Weapons Division, Naval Air Weapons Station China Lake, and the Army National Training Center, Fort Irwin, is therefore indispensable and irreplaceable; and

WHEREAS, The loss of low-level flying capability, not only by Edwards Air Force Base Flight Test Center, the Naval Air Warfare Center Weapons Division, Naval Air Weapons Station China Lake, and the Army National Training Center, Fort Irwin, but by military units throughout southern California, will result in aircrews having no training in the environment in which they will be required to fly, and will further result in weapons systems that are untested in a realistic environment; and

WHEREAS, Low-level flying is conducted over remote, sparsely populated areas where these operations, especially at night, result in minimal disturbance to the public; and

WHEREAS, Major commercial aircraft manufacturers, all of whom have a significant impact on the local, state, and national economies, rely on the use of some of these same areas to test their new products; and

WHEREAS, There have been, and continue to be, debates about the continued use of this vital airspace owing to proposed restrictive legislation, expansion of cities and towns, and other factors; 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 declares that it is desirable that the aeronautical uses of the restricted airspace that surrounds Edwards Air Force Base Flight Test Center, the Naval Air Warfare Center Weapons Division, Naval Air Weapons Station China Lake, and the Army National Training Center, Fort Irwin, be specifically protected in order to secure that major aviation development and testing area and in order to maintain the substantial economic benefits of military and commercial operations within that vital area; and be it further

Resolved, That nothing in this resolution should be interpreted as opposition to the California Desert Protection Act or other similar legislation currently being considered by Congress, which proposes to add desert and mountain lands to the National Park System with all the protections afforded those lands as provided by federal law; 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 commanding officer of Edwards Air Force Base Flight Test Center, the Naval Air Warfare Center Weapons Division, Naval Air Weapons Station China Lake, and the Army National Training Center, Fort Irwin.

RESOLUTION CHAPTER 95

Senate Concurrent Resolution No. 25—Relative to California Rehabilitation Week.

[Filed with Secretary of State September 17, 1993.]

WHEREAS, 35 million Americans have ongoing disabling conditions and the average American will live almost 13 years with some sort of disability; and

WHEREAS, Disability payments by government and industry are expected to top $200 billion annually by the year 2000; and

WHEREAS, Savings in long-term disability costs range from $1 billion to $2 billion annually, with an insurance industry-wide survey showing an average $11 savings for $1 in rehabilitation; and

WHEREAS, Rehabilitation restores functional ability and helps victims cope with ongoing disability; and

WHEREAS, Rehabilitation helps maintain health, thus extending life and reducing subsequent illness; and

WHEREAS, Although acute care saves lives, rehabilitation can determine the future quality of life, employability, and can deter

secondary disabilities; and

WHEREAS, Rehabilitation professionals working in hospitals, skilled nursing facilities, schools, clinics, home health care, and in private practice are committed to the process of empowering people with disabilities; 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, in recognition of National Rehabilitation Week, declares September 19 through 25, 1993, California Rehabilitation Week; and be it further.

Resolved, That the Secretary of the Senate transmit copies of this resolution to each Member of the California Assembly and the California State Senate, the Governor, the Director of the Department of Rehabilitation, and the Director of the Rehabilitation Unit of Mercy General Hospital.

RESOLUTION CHAPTER 96

Senate Concurrent Resolution No. 26—Relative to the California Law Revision Commission.

[Filed with Secretary of State September 17, 1993.]

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 1992, lists 26 topics, all of which the Legislature has previously authorized or directed the commission to study, and lists three new topics which the commission recommends it be authorized to study; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature approves for study by the California Law Revision Commission the proposed amendment to the State Constitution contained in SCA 3 (Lockyer) of the 1993–94 Regular Session, pertaining to the unification of the trial courts, with recommendations to be forwarded to the Legislature by February 1, 1994, pertaining to the appropriate composition of the amendment, and further recommendation to be reported pertaining to statutory changes that may be necessitated by court unification; and be it further

Resolved, 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 Legislature refers to the California Law Revision Commission for study the new topics listed below:

(1) Whether the Uniform Unincorporated Nonprofit Association Act, or parts of the Uniform Act, and related matters should be adopted in California;

(2) Whether the law governing unfair competition litigation under Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code should be revised to clarify the scope of the chapter and to resolve procedural problems in litigation under the chapter, including the res judicata and collateral estoppel effect on the public of a judgment between the parties to the litigation, and related matters;

(3) Whether the requirement of paragraph (2) of subdivision (b) of Section 800 of the Corporations Code that the plaintiff in a shareholder's derivative action must allege the plaintiff's efforts to secure board action or the reasons for not making the effort, and the standard under Section 309 of the Corporations Code for protection of a director from liability for a good faith business judgment, and related matters, should be revised; 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 97

Senate Concurrent Resolution No. 27—Relative to Renaissance Month.

[Filed with Secretary of State September 17, 1993.]

WHEREAS, Renaissance programs have fostered and rewarded academic improvement and achievement by innumerable pupils since these programs were initiated in 1985 at a South Carolina school; and

WHEREAS, Many schools in the state have established successful Renaissance programs that have motivated pupils to improve and sustain their academic achievement; and

WHEREAS, Renaissance programs publicly recognize and reward a pupil's academic improvement or achievement; and

WHEREAS, Renaissance programs encourage pupils to take a greater interest in academic improvement and achievement by providing incentives contributed by the business community; and

WHEREAS, A school tailors its Renaissance program according to the support provided by the local business community and the levels of academic achievement to be recognized; and

WHEREAS, The benefits of Renaissance programs can include improved school attendance, higher national test scores, better teacher morale, greater parent participation, and enhanced self-esteem; 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 hereby proclaims the month of November as 'Renaissance Month' to recognize the contribution of Renaissance programs to academic improvement and achievement.

RESOLUTION CHAPTER 98

Senate Joint Resolution No. 18—Relative to sustainable development.

[Filed with Secretary of State September 17, 1993.]

WHEREAS, The international community, under the auspices of the United Nations Conference on the Environment and Development, has begun to explore ways to integrate economic development and environmental quality through a strategy to promote sustainable development; and

WHEREAS, The United Nations and the United States government are considering actions to further the agreements reached by the international community regarding sustainable development, including the establishment of a new United Nations

Commission on Sustainable Development; and

WHEREAS, Many nations and other states, including Austria, Canada, Holland, New Zealand, Norway, Florida, Minnesota, Vermont, and Washington, are developing sustainable development plans to properly preserve and protect treasured natural resources and environmental quality while benefiting their economies; and

WHEREAS, Sustainable development involves promoting human well-being and meeting critical economic needs while ensuring all of the following: managing natural and physical resources and the natural environment so that future generations have resource options; managing renewable resources so that their quality and quantity are preserved or enhanced; managing the built environment in a way that promotes the efficient use of energy and other resources, sustaining the abundance of resources and preserving the capacity of natural systems to absorb wastes and perform other necessary ecological functions; promoting the biodiversity of species and systems; and avoiding, remediating, or mitigating, to the greatest extent practicable, the adverse effects on the environment of use and development; and

WHEREAS, It is of the utmost importance that California's regulatory environment is favorable to the varied activities of the businesses that contribute to the well-being of the state; and

WHEREAS, At the same time, it is essential to ensure that people can safely breathe the air and drink the water, that children can play without the fear of exposure to toxic contaminants, that treasured natural and cultural resources are preserved and protected for all to enjoy, and that those who make their livelihood from fishing, tourism, and other natural resource-related endeavors may continue to do so; and

WHEREAS, The goal of making business practices and environmental quality compatible with economic vitality cannot be achieved without ensuring that environmental preservation and protection statutes and regulations are consistent and necessary to serve that public purpose; and

WHEREAS, The business community needs a stable framework of economic and environmental statutes and regulations to be able to make long-range plans and to invest in the best available technology; and

WHEREAS, The State of California is confronted with economic and social problems and our natural resources are increasingly threatened, requiring a new partnership among businesses, government agencies, and environmental groups and other organizations to develop and implement an urgently needed strategy for environmental protection, natural resources conservation, and sustained economic output; and

WHEREAS, The State of California, as a leader in the international effort to integrate the preservation of environmental quality with the promotion of economic development, would be an appropriate location for a national and international center on sustainable

development; and

WHEREAS, The State of California includes many potential sites for such a center, including the Presidio in San Francisco and other federal facilities currently proposed for conversion to peacetime uses; and

WHEREAS, There must be wise and responsible stewardship exercised to maximize both environmental quality and economic productivity in the state; 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 encourages cooperative international, national, and statewide efforts to promote sustainable development; and be it further

Resolved, That the United Nations and the United States government are invited to establish a center in California to promote research on sustainable development, including the headquarters for the Commission on Sustainable Development to oversee the implementation of the National Environmental Strategies included in the Agenda 21 Charter adopted in June 1992 by the international community at the United Nations Conference on the Environment and Development in Rio de Janeiro, Brazil; and be it further

Resolved, That the State of California expeditiously develop and implement a sustainable development plan; 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, the Speaker of the House of Representatives, the United States Ambassador to the United Nations, the Governor, and each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 99

Senate Joint Resolution No. 21—Relative to long-term care.

[Filed with Secretary of State September 17, 1993.]

WHEREAS, Approximately 1.3 million persons or slightly over 4 percent of California's population have one or more functional limitations requiring long-term care assistance; and

WHEREAS, By the year 2000 the number of Californians with functional disabilities will increase to 1.6 million and will further increase to 2.2 million by the year 2020, over a 70-percent jump; and

WHEREAS, Long-term care refers to a broad range of medical, social, personal, and supportive services needed by individuals who have lost some capacity for self-care because of a chronic illness or condition; and

WHEREAS, Chronic conditions occur in individuals of all ages, their incidence, especially as they result in disability, increases with

age. These illnesses and conditions include heart disease, strokes, multiple sclerosis, AIDS, muscular distrophy, arthritis, vision and hearing impairments, and Alzheimer's and related dementias; and

WHEREAS, Long-term care affects families and Californians of all ages. Although the incidence of chronic disease increases with age, 40 percent of persons in need of long-term care are under 65 years of age, including children; and

WHEREAS, Older persons and younger disabled persons and their caregiving families overwhelmingly prefer to live independently and maintain control over their own lives and care; and

WHEREAS, Community-based care includes a range of services including adult day care, respite care, case management, home health care, homemaker services, hospice care, and transportation to support the individual and his or her family in their wish to live at a maximum level of independence; and

WHEREAS, Long-term health care facilities and residential care facilities for the elderly provide a multitude of critical services that, when integrated with community-based care, ensure that individuals can live with the highest level of independence and dignity; and

WHEREAS, Individuals and families have almost no protection against the cost of long-term care; and

WHEREAS, More than 95 percent of the costs of long-term care are not covered by Medicare and private insurance; and

WHEREAS, Most California families and individuals with long-term care needs face the prospect of having their life savings wiped out; and

WHEREAS, Medi-Cal covers long-term care only after people have had to impoverish themselves; and

WHEREAS, The State of California has tried to help families meet long-term care needs through the Medi-Cal program and a variety of other programs administered by the State Department of Health Services, the State Department of Social Services, the State Department of Mental Health, the Department of Rehabilitation, the Department of Aging, and the State Department of Developmental Disabilities; and

WHEREAS, Both the federal and state programs meet only a fraction of current individual and family needs; and

WHEREAS, Increasing health care costs and decreasing state revenues have forced reductions in state support of long-term care services; and

WHEREAS, Californians have repeatedly indicated support for a public program to provide long-term care protection; and

WHEREAS, President Clinton and the Congress are engaged in a national discussion to develop a consensus on comprehensive health care reform; and

WHEREAS, In order for health reform to be comprehensive, it must include long-term care; and

WHEREAS, In order for health care reform to be responsive to the groundswell of consumer demand, it must include long-term care;

and

WHEREAS, In order for health care reform to be responsive to the needs of California, it must include long-term care; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature memorializes the President and the Congress of the United States to incorporate long-term care as an essential part of health care reform legislation and to enact the legislation in 1993; 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 100

Senate Joint Resolution No. 25—Relative to American prisoners of war or missing in action.

[Filed with Secretary of State September 17, 1993.]

WHEREAS, A September 1972 Vietnamese document found in the K.G.B. archives in Moscow has, again, raised the issue that as many as 600 American prisoners of war (P.O.W.s) captured during the Vietnam War were secretly held, were not released in "Operation Homecoming" after the Paris Peace Treaty ended the American combat role in the Vietnam War, and have never been accounted for; and

WHEREAS, The government of Vietnam is now anxious to move forward, to end the American economic embargo and to normalize relations with the United States of America; and

WHEREAS, President Clinton on Memorial Day 1993 ordered the declassification and release of some documents relating to American P.O.W.s and Americans missing in action (M.I.A.s); and

WHEREAS, Presidential candidate Bill Clinton proclaimed five times that "we will not lift the trade embargo or normalize relations with Vietnam until all P.O.W.s and M.I.A.s are accounted for"; and

WHEREAS, The accounting of P.O.W.s and M.I.A.s in World War II and in the Korean Conflict is, also, incomplete; 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 demand that the government of Vietnam provide the fullest possible accounting of each and every American P.O.W. or M.I.A.; and be it further

Resolved, That the United States of America refuse to normalize relations with the country of Vietnam and continue the trade embargo against Vietnam until it gives the fullest possible accounting for all American P.O.W.s and M.I.A.s; and be it further

Resolved, That the United States of America, also, seek a full accounting of American P.O.W.s and M.I.A.s from World War II and from the Korean Conflict; 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, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 101

Senate Joint Resolution No. 27—Relative to Mare Island Naval Shipyard.

[Filed with Secretary of State September 17, 1993.]

WHEREAS, The Mare Island Naval Shipyard in Vallejo, California, is on the United States Base Closure and Realignment Commission's 1993 list of military bases recommended for closure; and

WHEREAS, The closing of Mare Island may result in a devastating loss of more than 26,000 jobs in the San Francisco Bay area; and

WHEREAS, In September 1993, the Department of Defense will name a limited number of new Defense Finance and Accounting Service centers to be located throughout the country; and

WHEREAS, As the "accounting firm" for the Department of Defense, the Defense Finance and Accounting Service has taken over responsibility of installation-level accounting and reporting for all general funds, the Defense Business Operations Fund, revolving funds, trust funds, accounts payable, accounts receivable, billings, debt management, cash accounting, funds authentication, and certain managerial accounting functions; and

WHEREAS, The Mare Island site is ideally suited for the location of a Defense Finance and Accounting Service center; and

WHEREAS, The existing Mare Island infrastructure, consisting of state-of-the-art office buildings, equipped with a fiber-optic local area network for data communication, could easily be adapted for Defense Finance and Accounting Service center use; and

WHEREAS, The existing Mare Island office space contains no known environmental hazards that would require preliminary remediation; and

WHEREAS, A Defense Finance and Accounting Service center at Mare Island would provide highly cost-effective service and support of Department of Defense activities on the West Coast and Hawaii;

and

WHEREAS, Preliminary studies indicate that a minimal expense of approximately $4 million would be required to establish a Defense Finance and Accounting Service center at Mare Island and that this initial startup cost could be offset by reduced severance payouts; and

WHEREAS, With a Defense Finance and Accounting Service center at Mare Island serving as an "anchor" tenant and employing between 3,000 and 4,000 people, its siting would begin the prompt conversion of Mare Island prior to operational closure; and

WHEREAS, A Defense Finance and Accounting Service center at Mare Island would have the added benefit of encouraging other new businesses to locate there; 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 and the Secretary of the Department of Defense to designate the Mare Island Naval Shipyard as a location for a Defense Finance and Accounting Service center; 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 the United States Department of Defense.

RESOLUTION CHAPTER 102

Assembly Concurrent Resolution No. 9—Relative to Red Ribbon Week.

[Filed with Secretary of State September 20, 1993.]

WHEREAS, Californians for Drug Free Youth, Inc., a statewide parent-community organization, the State 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 23 through October 31, 1993, 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 celebration; and

WHEREAS, The Assembly has further committed its resources to ensure the success of the Red Ribbon celebration; 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 celebration by proclaiming October 23 through October 31, 1993, 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, "DRUG-FREE AND PROUD!"; 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 103

Assembly Concurrent Resolution No. 56—Relative to consolidation of the Education Code.

[Filed with Secretary of State September 20, 1993.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby requests the Legislative Counsel to consolidate the voluminous California Education Code without substantive change and to submit the proposed draft to the Legislature on or before January 1, 1995; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Legislative Counsel.

RESOLUTION CHAPTER 104

Assembly Concurrent Resolution No. 57—Relative to the California Materials Exchange Program.

[Filed with Secretary of State September 20, 1993.]

WHEREAS, The California Materials Exchange Program (CALMAX) was created by the California Integrated Waste Management Board in 1991 to encourage participation by the general public, business, government, and industry in all phases of integrated waste management; and

WHEREAS, The program has successfully completed its first year of operation; and

WHEREAS, The program provides a forum for the exchange of reusable materials between businesses, thereby diverting over 110,000 tons of materials that would otherwise be disposed of at landfills; and

WHEREAS, The program has gained wide acceptance and visibility as an unprecedented "direct action" program by participants and colleagues in the field for its efforts in waste management; and

WHEREAS, The program has been commended nationally by other exchange programs for its pioneering implementation of the first materials exchange program in the world to exclusively target nonhazardous solid waste; and

WHEREAS, The program has successfully demonstrated its role in stimulating markets for recyclable materials, and has been a successful vehicle whereby businesses can access inexpensive or free feedstock; and

WHEREAS, The program is the primary alternative provided by the board to business and industry to help meet the goals of the California Integrated Waste Management Act of 1989; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature commends the California Integrated Waste Management Board for establishing the California Materials Exchange Program; and extends to the board sincere appreciation for a program that contributes dynamically to the reduction of solid waste and the stimulation of markets for recyclable materials; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the members of the California Integrated Waste Management Board.

RESOLUTION CHAPTER 105

Assembly Concurrent Resolution No. 59—Relative to the Warren West Memorial Bridge.

[Filed with Secretary of State September 20, 1993.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the South Alviso Overhead bridge on State Highway Route 237 in the City of San Jose is hereby officially designated the Warren West 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 106

Assembly Concurrent Resolution No. 66—Relative to proclaiming California COASTWEEKS and Adopt-a-Beach Coastal Cleanup Day.

[Filed with Secretary of State September 20, 1993.]

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 California coast has 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, Runoff from inland areas, combined with beach litter and ocean debris, degrades the marine environment; and

WHEREAS, The Legislature is strongly committed to the wise management of the coastline to ensure the preservation of the coastal zone's environmental and economic values; and

WHEREAS, Preserving the productivity and quality of coastal resources requires public awareness, support, and an understanding that protection of the coast is a responsibility shared by all citizens, public institutions, and the business community; and

WHEREAS, The California Coastal Commission's Adopt-a-Beach program helps reduce litter, promotes recycling, and encourages the preservation of natural resources; and

WHEREAS, National COASTWEEKS will be held from September 18 through October 11, 1993, 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 18 through October 11, 1993, as California COASTWEEKS; and be it further

Resolved, That the Legislature proclaims October 2, 1993, 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 COASTWEEKS 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, the Resources Agency, and the California Environmental Protection Agency.

RESOLUTION CHAPTER 107

Assembly Concurrent Resolution No. 67—Relative to labor education programs.

[Filed with Secretary of State September 20, 1993.]

WHEREAS, The University of California established the centers for labor research and education at the University of California at Berkeley and Los Angeles in 1964; and

WHEREAS, The labor studies programs at San Francisco City College and San Jose City College were established in 1974 and the Labor Center at Los Angeles Trade Technical College was established in 1978; and

WHEREAS, These and other labor education programs in California, including the programs at San Francisco State University, California State University Sacramento, California State University Dominguez Hills, and Laney College in Oakland, provide vital and unique services to thousands of workers and represent the most important connection between postsecondary education and the labor and industrial relations community in California; and

WHEREAS, These programs serve California's changing economy by strengthening communication between labor and management, promoting union democracy and self-governance, educating workers regarding their rights on the job, and increasing employee participation to generate more productive workplaces; and

WHEREAS, These valuable programs face budget reductions, hiring freezes, salary cuts, or fee increases that reduce access for workers; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the labor studies programs in California be commended for their unique contribution to California's economy and to local communities; and be it further

Resolved, That all reasonable efforts be made to maintain the fiscal integrity of these programs; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the President and Regents of the University of California, to the Chancellors of the University of California at Berkeley and Los Angeles, to the Trustees of the California State University, to the Chancellor of California State University Dominguez Hills, to the Chancellor and Board of Governors of the California Community Colleges, to the Chancellors of the Los Angeles Community College District and the Peralta Community College District, and to the Presidents of San Francisco City College and San Jose City College.

RESOLUTION CHAPTER 108

Assembly Concurrent Resolution No. 68—Relative to Breast cancer awareness.

[Filed with Secretary of State September 20, 1993.]

WHEREAS, Breast cancer is an epidemic that will strike one out of eight American women, and one out of 10 California women, in their lifetime; and

WHEREAS, Breast cancer is the most common form of cancer among women, and is second only to lung cancer as the leading cause of cancer deaths among women, both nationally, and in California; and

WHEREAS, In the United States, approximately 46,000 women will die of breast cancer, and some 180,000 new cases will be diagnosed in 1993; and

WHEREAS, In California, approximately 5,000 women will die of breast cancer, and nearly 20,000 new cases will be diagnosed in 1993; and

WHEREAS, In California, the highest incidence of breast cancer is found in Anglo women, the highest mortality rate occurs among African-American women, and the greatest percentage of late-stage diagnosis occurs among Latino and African-American women; and

WHEREAS, Breast cancer is increasingly being diagnosed among women in their 30's and 40's; and

WHEREAS, More than 70 percent of women with breast cancer exhibit none of the known risk factors; and

WHEREAS, Although evidence is emerging about a link between environmental factors and breast cancer, not enough research is being funded to pursue this link; and

WHEREAS, Despite over 20 years of the "war on cancer," there is still no known cause, cure, or method of preventing breast cancer; and

WHEREAS, While mammography remains an important method for breast cancer detection, it often fails to identify the disease effectively, particularly among women in their 20's, 30's, and 40's, and when a mammogram does identify a tumor, the cancer has usually been established for an estimated eight years; and

WHEREAS, While mammography is less effective in denser breast tissue, monthly breast self-exam becomes even more important for women in their 20's, 30's, and 40's; and

WHEREAS, In addition to the incalculable emotional costs to women and their families, the direct and indirect economic costs of breast cancer are estimated at $8 billion a year nationally in additional health care services and lost productivity; and

WHEREAS, Historically, breast cancer research has been grossly underfunded at the federal level, topping a decade of erosion in federal appropriations in the 1980's for all cancer research; and

WHEREAS, While last year Congress appropriated over $400 million for federal breast cancer research, much more is needed to fund research directed at finding a cure and means of preventing breast cancer adequately; and

WHEREAS, Californians now have a unique opportunity to support breast cancer research in this state through the California Breast Cancer Research Fund Act, which allows individuals to make a voluntary contribution to support research when filing state income tax returns; and

WHEREAS, Heightened public awareness and education about breast cancer are crucial to the national effort to eradicate this epidemic; and

WHEREAS, It is in the best interest of all women, men, and families to join together to promote greater awareness about a disease that affects all Californians, the need for true early detection and adequate treatment options, and the urgency of finding a cure; 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, in order to heighten public awareness about breast cancer, including the need to redouble efforts to prevent and cure this disease, declares October as Breast Cancer Awareness Month; and be it further

Resolved, That the Legislature of the State of California, in order to recognize that, to date, breast exam and mammography are still the primary methods of breast cancer detection available to women, and that, therefore, all women should perform monthly breast self-exams, women over 50 years of age should have regularly scheduled mammograms every year, and women 40 to 49 years of age should consult about mammograms with their health care provider, declares October 19 as Breast Exam and Mammography Awareness Day; and be it further

Resolved, That the Legislature of the State of California emphasizes that the public education efforts conducted during the month of October should be part of an ongoing, year round effort to raise public awareness across the state; and be it further

Resolved, That the Legislature of the State of California recognizes that while early detection through routine mammograms, clinical exam, and breast self-exam is important, the only effective means of protecting women against breast cancer is to make breast cancer research a priority and fund critically needed research into the cause, cure, and prevention of breast cancer; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to each Member of the California Assembly and the California State Senate, and to the Governor of the State of California.

RESOLUTION CHAPTER 109

Assembly Concurrent Resolution No. 69—Relative to hosting the U.S. Men's National Soccer Team training activities by Mission Viejo.

[Filed with Secretary of State September 20, 1993.]

WHEREAS, The City of Mission Viejo is famed worldwide for its recreational and sports opportunities available to citizens of all ages, skill levels and physical well-being; and

WHEREAS, The climate, citizenry, and the communities' commitment to fitness and health combined with outstanding housing, cultural, and educational opportunities has helped spawn in the Saddle Valley, which includes the City of Mission Viejo, as well as Lake Forest, Laguna Hills, Laguna Niguel, Aliso Viejo, and Rancho Santa Margarita, more than 40 organized competitive, youth athletic organizations offering baseball, softball, football, soccer, swimming, diving, basketball, tennis, track and field, gymnastics, and golf; and

WHEREAS, These programs have helped produce many world-class athletes, both national and Olympic champions from Mission Viejo and the Saddle Valley area; and

WHEREAS, These programs will be immeasurably enhanced by the recently successful efforts of community leaders including members of the City Council of the City of Mission Viejo, the Mission Viejo Soccer Foundation as well as the Parks and Community Services Department of Mission Viejo, and most particularly the contributions of Alan F. Gallup, cofounder and President of the Mission Viejo Soccer foundation, that culminated in the selection of Mission Viejo from a nationwide list of cities as the National Training Center for the U.S. Men's National Soccer Team by the World Cup Organizing Committee; and

WHEREAS, During the two years that the U.S. Men's National Soccer Team will train for the World Cup at Mission Viejo, team members, coaches, and staff will be introduced to the community through planned social functions and will be positive role models for our youth and worthy examples for young soccer players who will learn from and be inspired by them; and

WHEREAS, Since the team will hold six exhibition games in Mission Viejo during the two-year period of training, as well as help run several soccer clinics, the presence of the team will enhance recognition of Mission Viejo's justly deserved reputation as a national center of soccer enthusiasm and benefit the business community through tourist dollars and other economic advantages derived from this positive accomplishment; and

WHEREAS, That with the departure of the U.S. Men's National Soccer Team two years hence, the City of Mission Viejo will have a youth sports center in Oso Viejo Park equipped with two world-class soccer fields with stadium lights, a 3,800 square-foot building that will contain a kitchen, dining room, offices for coaches and sports staff,

a training room, dressing rooms, and a media center; now therefore be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby congratulates and commends the people of Mission Viejo, Robert Breton, Mayor pro Tempore; Susan Withrow, Councilwoman; Sharon Cody, Councilwoman; Bill Craycraft, Councilman; and Joe Lowe, Councilman, for overcoming adversity and succeeding to make a reality the history-making project of hosting the U.S. Men's National Soccer Team and the next World Cup Champions in one of our nation's finest soccer training facilities; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to the Mayor of the City of Mission Viejo.

RESOLUTION CHAPTER 110

Assembly Concurrent Resolution No. 71—Relative to ecological reserves.

[Filed with Secretary of State September 20, 1993.]

WHEREAS, Article X B of the California Constitution requires the Fish and Game Commission to establish four new ecological reserves in ocean waters along the mainland coast prior to January 1, 1994; and

WHEREAS, Each ecological reserve is required to have a surface area of at least two square miles; and

WHEREAS, The commission is required to restrict the use of the reserves to scientific research relating to the management and enhancement of marine resources; and

WHEREAS, It is in the interest of all of the citizens of this state to have scientific research conducted in the reserves on the impact of all human activities on marine resources, including sportfishing and commercial fishing; and

WHEREAS, Certain recreational uses of the ecological reserves are not in conflict with the above requirements; and

WHEREAS, Members of the public should be given an opportunity to provide input on the selection of the sites of the reserves; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature requests the Fish and Game Commission to conduct a public hearing at each of the recommended sites of the ecological reserves or at the nearest practicable site prior to establishing the reserves; and be it further

Resolved, That the Legislature requests the commission to restrict the use of the ecological reserves to scientific research relating to the management and enhancement of marine resources, including, but

not limited to, scientific research as it relates to sportfishing and commercial fishing; and be it further

Resolved, That recreational uses, including, but not limited to, hiking, walking, viewing, swimming, diving, surfing, and transient boating are not in conflict with Section 14 of Article X B of the California Constitution; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Fish and Game Commission.

RESOLUTION CHAPTER 111

Assembly Concurrent Resolution No. 72—Relative to the David S. Karp Memorial Overcrossing.

[Filed with Secretary of State September 20, 1993.]

WHEREAS, David S. Karp was a person whose lifelong concern for, and dedication to, his community will be long remembered; and

WHEREAS, Mr. Karp was nationally recognized as an expert on transportation and infrastructure matters; and

WHEREAS, During his tenure as Mayor of San Leandro, Mr. Karp served as a member of the Metropolitan Transportation Commission, the Alameda County Transportation Authority, the Congestion Management Authority for Alameda County, and the ACR 132 (Capitol Corridor) Committee; and

WHEREAS, It is highly fitting that Mr. Karp's many outstanding contributions, particularly in the field of transportation, be appropriately memorialized; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That in recognition of the outstanding contributions made by David S. Karp, that Overcrossing No. 33-583 on the Interstate Route 880 in San Leandro be officially designated the David S. Karp Overcrossing; 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 that official designation, and, upon receiving donations from nonstate sources to recover the costs, 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 112

Assembly Concurrent Resolution No. 73—Relative to the establishment of Homeless Awareness Month.

[Filed with Secretary of State September 20, 1993.]

WHEREAS, The number of people who are without permanent affordable housing, or who are at risk of losing their housing, has increased significantly over the last decade; and

WHEREAS, The State of California seeks to participate in a partnership with the federal government, local governments, and other public and private agencies to provide relief for homeless people, and to find ways to eliminate and prevent homelessness; and

WHEREAS, The State of California desires to inform the public of the critical needs of homeless people, and of the public and private programs that have assisted them in ending homelessness; and

WHEREAS, The State of California desires to recognize the accomplishments of those individuals and families who have overcome barriers to end their homelessness; and

WHEREAS, The State of California desires to recognize the dedication and commitment of public employees, private agency staff, volunteers, and community members at large who generously give of themselves to help the homeless; 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 proclaims that November 1993 be declared Homeless Awareness Month.

RESOLUTION CHAPTER 113

Assembly Concurrent Resolution No. 74—Relative to the Ray E. Johnson Expressway.

[Filed with Secretary of State September 20, 1993.]

WHEREAS, Ray E. Johnson served with distinction in the California Legislature for 18 years, having been first elected in 1964 to the Assembly, and he was elected to the Senate in 1976; and

WHEREAS, Born in Oroville, Senator Johnson attended Oroville schools and later the University of California, and was a cofounder of the Christian and Johnson Company and founder of the Christian and Johnson Garden and Nursery Center in Chico; and

WHEREAS, A former member of the Butte County Board of Education and the grand juries in both Butte and Colusa Counties, Ray Johnson married Lorraine Christian in 1935, and is the father of Mary Lou and Ray E. Johnson, Jr.; and

WHEREAS, Ray Johnson represented 15 counties as a Member of

the Legislature and, in that capacity, was instrumental in securing the completion of the Highway 65 Bypass of Interstate 80 and in the three-lane widening of Interstate 80; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the portion of State Highway Route 99 consisting of the four-lane expressway, between the Edgar Slough (Bridge No. 12128) and the Pentz Road overcrossing (Postmile 24.2) is hereby officially designated the Ray E. Johnson Expressway; 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 this 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 114

Assembly Joint Resolution No. 1—Relative to the Equal Rights Amendment.

[Filed with Secretary of State September 20, 1993.]

WHEREAS, Legal injustice and discrimination on the basis of gender have long existed; and

WHEREAS, Efforts to defeat final ratification of the Equal Rights Amendment were aided in great measure by an insensitivity to the essential injustice long suffered by the women of this country because of established discrimination on the basis of gender; and

WHEREAS, The citizens of California clearly support an end to discrimination on the basis of gender through an amendment to the Constitution of this nation, as the United States has previously renounced slavery, racial discrimination, and denial of the right to vote on the basis of race or gender; and

WHEREAS, Congress in 1972 proposed a federal Equal Rights Amendment to the United States Constitution to provide for equality of the law regardless of gender, which was narrowly defeated in 1982; and

WHEREAS, The California Legislature prefers that each state ratify the federal Equal Rights Amendment to achieve a uniform national policy; and

WHEREAS, The Equal Rights Amendment provides that gender should not be a factor in determining the legal rights of men and women and thereby recognizes the fundamental dignity, individuality, and worth of each human being; and

WHEREAS, The California Legislature again stands ready to ratify a federal Equal Rights Amendment when approved by Congress for state ratification; 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 propose to the several states an amendment to the Constitution of the United States stating that all men and women are equal under the law; 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 115

Assembly Joint Resolution No. 10—Relative to war atrocities in the former Yugoslavia.

[Filed with Secretary of State September 20, 1993.]

WHEREAS, Women, men, and children have been raped in systematic conduct by military forces in the towns and villages of the former Yugoslavia; and

WHEREAS, This terror has been condemned internationally as a crime against humanity; and

WHEREAS, Many of the victims, including many women and children, have died as a result of the rape or other sexual abuse; and

WHEREAS, The rapes and other incidents of sexual abuse are being carried out in particularly sadistic ways so as to inflict the maximum humiliation and terror; and

WHEREAS, The systematic use of rape and other sexual abuse in this pervasive manner demonstrates a pattern of conduct knowingly used by the military as a weapon of war, with the conscious intention of demoralizing and terrorizing communities and driving them from their home regions through demonstration of the terrible power of the invading force, thereby achieving the intended result of providing the invading force with a tactical military advantage; and

WHEREAS, Use of rape and other sexual abuse as a military strategy in this conscious, systematic, and pervasive manner is not akin to the incidental abuses that have been evidenced in prior wars, but must be recognized as the knowing, systematic weapon of terror that it is; and

WHEREAS, An ancillary purpose behind this systematic conduct appears to be a desire to achieve "ethnic cleansing"; and

WHEREAS, The rape and other sexual abuse is a terrible

component of an overall pattern of destruction of life, property, and human rights; and

WHEREAS, The United Nations Security Council declared rape when committed in armed conflict and directed against any civilian population, a crime against humanity; and

WHEREAS, The United States has historically taken the lead in the community of nations to identify, condemn, and outlaw weapons of war that rely, for their success, upon the terror they instill in civilian populations, and to condemn wartime conduct that violates human rights and dignities; 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 condemn, in the strongest possible terms, war atrocities relating to the systematic use of rape and other sexual abuse of men, women, and children by the military; 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 116

Assembly Joint Resolution No. 38—Relative to unfunded federal mandates.

[Filed with Secretary of State September 20, 1993.]

WHEREAS, For decades, the federal government has passed laws requiring state and local governments to implement innumerable regulations and provide a multitude of services; and

WHEREAS, Local governments provide a variety of necessary public services, but are required to operate giving precedence to federal requirements; and

WHEREAS, These laws have forced state and local governments, in essence, to be financially responsible for federal policies over which they have no control and have undermined the ability of state and local governments to achieve their responsibilities under state and local law; and

WHEREAS, These laws or mandates, in many instances, have added to growing deficits in state and local budgets and have resulted in the need for state and local governments to identify additional, and increase existing, revenue streams or to curtail fire, police, and public safety functions among other services deemed appropriate for their jurisdictions by state and local governments; and

WHEREAS, At a time when California faces a struggling economy, shrinking tax base, and concomitant budgetary shortfalls, there exists a need for greater flexibility in terms of resource expenditure and program prioritization as well as decreasing the financial burden imposed upon state and local governments by unfunded federal mandates; 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 support and enact United States House of Representatives Bill 140, a measure that will end the practice of imposing unfunded federal mandates on state and local governments and to ensure that the federal government pays the direct costs incurred by state and local governments in complying with requirements imposed under future federal statutes and regulations; 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 117

Assembly Joint Resolution No. 47—Relative to water quality.

[Filed with Secretary of State September 20, 1993.]

WHEREAS, H.R. 2853 has been introduced in the United States Congress to create the San Gabriel Basin Demonstration Project to improve the quality of groundwater in the San Gabriel Basin; and

WHEREAS, The San Gabriel Basin presents a unique set of environmental problems; the San Gabriel Valley is a 195 square mile area located approximately 10 to 20 miles northeast of downtown Los Angeles in Los Angeles County; and it is the home of 1,000,000 to 1,500,000 people who rely on the groundwater of the basin for their primary drinking water; and

WHEREAS, The San Gabriel Basin is the most heavily contaminated potable groundwater basin in the United States; and

WHEREAS, The groundwater in the San Gabriel Basin is heavily contaminated with toxic volatile organic compounds (VOCs), including trichloroethylene (TCE), perchloroethylene (PCE), and carbon tetrachloride (CTC); four separate areas of contamination in the San Gabriel Basin are listed on the National Priority List (NPL) of the Superfund; and the areas where the VOC contamination exceeds drinking water standards cover approximately 30 to 40 square miles; and

WHEREAS, The VOCs in the San Gabriel Basin have been

generated by hundreds of commercial and industrial facilities, scattered throughout the San Gabriel Valley, over a period of more than 30 years; and

WHEREAS, The San Gabriel Basin is also heavily contaminated with nitrates from over a century and a half of agriculture and ranching in the valley as well as from industrial and residential septic systems; and

WHEREAS, Once contaminated, groundwater is very difficult to clean up and a plume of polluted groundwater will migrate and spread contaminants wherever it flows; and

WHEREAS, Forty-five different water purveyors take water from the basin; and because the groundwater flows under hundreds of different facilities, apportioning responsibility could be a very complicated and litigious process; and

WHEREAS, There are approximately 275 public water supply wells in the San Gabriel Basin; and 80 wells have contamination levels exceeding current federal drinking water standards; and

WHEREAS, The San Gabriel Basin Demonstration Project would enable the Environmental Protection Agency (EPA), in cooperation with the Main San Gabriel Basin Water Quality Authority, and in consultation with all local water agencies in the San Gabriel and Central Basins, to clean up the groundwater of the San Gabriel Basin; specified facilities would be encouraged to contract with the EPA to pay their share of the cleanup costs; and those facilities that contracted with the EPA and fulfilled their obligations would be exempted from Superfund liability.

WHEREAS, The San Gabriel Basin Demonstration Project presents a unique opportunity for the community to solve a difficult problem by working together with the federal government in a public-private partnership; 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 Congress of the United States to enact H.R. 2853 ; 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 Governor of California.

RESOLUTION CHAPTER 118

Assembly Joint Resolution No. 50—Relative to federal mandates.

[Filed with Secretary of State September 20, 1993.]

WHEREAS, The federal government has imposed certain mandates upon the State of California to provide services to all of its residents; and

WHEREAS, The federal government has committed to reimburse the state for the cost of providing those services; and

WHEREAS, The continuing economic conditions in California have created serious deficits in the state's budget for the past four years; and

WHEREAS, Due to the effect of national economic conditions on the federal budget, the federal government has not reimbursed the state in full for the mandates it has imposed; and

WHEREAS, Unfunded federal mandates continue to inflict serious hardship on the state's ability to provide basic services to its citizens; and

WHEREAS, At meetings in Washington D.C. earlier this year productive dialogue on this problem took place between Members of this Legislature and California's Congressional delegation; and

WHEREAS, A continuation of this dialogue is crucial for an ultimate solution to the problem of unfunded mandates; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature respectfully requests all Senators and Representatives from California in the Congress of the United States to annually appear before a joint session of the California Legislature to discuss problems related to unfunded federal mandates as well as to discuss new burdens that have been imposed by the federal government on the state; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 119

Assembly Concurrent Resolution No. 46—Relative to California Frontier Opportunities.

[Filed with Secretary of State September 22, 1993.]

WHEREAS, California is in the midst of its most serious economic downturn since the Great Depression of the 1930's; and

WHEREAS, The Assembly Democratic Economic Prosperity Team (ADEPT) has found in its 90 plus meetings with businesses and industries that California's recovery is in large part dependent upon our ability to collaboratively work with all interested parties to quickly enact policies most likely to immediately improve our economy; and

WHEREAS, ADEPT has heard numerous innovative and creative

ideas that would assist in this constructive and collaborative process; and

WHEREAS, These ideas were detailed in the ADEPT Preliminary Report in the section entitled Frontier Opportunities; and

WHEREAS, ADEPT wishes to work with the administration and executive branch in finding areas of common ground with respect to economic development; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That each Member of the Legislature and the Governor is encouraged to familiarize themselves with the ADEPT report and its recommendations and that ADEPT submits the following numerous Frontier Opportunity proposals for consideration by the Governor and immediate action by the administration where appropriate; and be it further

Resolved, That the Governor consider creating a public/private sector joint forum for convening analysts and sponsors of the several California economic analyses, encouraging them to jointly develop proposals for addressing California's economic crisis; and be it further

Resolved, That the Governor consider convening a California government summit, inviting prominent business management analysts to discuss how every level of California government can reenvision and reinvent itself to become a more efficient service provider; and be it further

Resolved, That the Governor consider convening an annual California Pacific Rim Conference similar to those during the Brown and Deukmejian administrations to improve California's economic and political relationship with Pacific Rim nations; and be it further

Resolved, That the Governor and Legislature jointly arrange a meeting with the Japanese government to explore international collaboration possibilities between California and Japan, including programs undertaken by the Japanese Ministry of International Trade and Industry (MITI); and be it further

Resolved, That the Governor consider creating a California State Investment Partnership (CSIP) with leading high technology companies similar in structure to small business loan guarantee programs in which the state provides some guarantee and in return takes a partial ownership interest if the endeavor is successful. State profits from these partnerships would go towards additional CSIP investments; and be it further

Resolved, That the Governor and Legislature formally recognize the importance of California's diverse arts community in California's economic development and develop ways for this community to fully participate in California's economic recovery; and be it further

Resolved, That the Governor assess the value of WORKFORCE CALIFORNIA for development of effective school-to-work transition partnerships between the public and private sectors; and be it further

Resolved, That the Governor and Legislature consider creating a

model for addressing the economic development needs of California's inner cities. The model should consist of a consortia of government, business, labor, education, church, and grassroots community action groups to create laboratories for this endeavor; and be it further

Resolved, That the Governor explore possible duplication of the Tandem Computer model for management-employee shared vision relating to employee community concerns for duplication throughout California's public and private sector; and be it further

Resolved, That the Governor consider creating within the California Foreign Trade Office advisory teams consisting of foreign national business leaders to improve international coordination and allow California to take full advantage of emerging foreign trade opportunities; and be it further

Resolved, That the Governor immediately enlist the support of California's local governments for active partnership in addressing California's economic development; and be it further

Resolved, That the Governor evaluate and consider the economic development agenda of California's premier biotechnology industry as part of our state's economic development strategy; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Governor and to all major California business groups, particularly those with involvement or expertise in each of the California Frontier Opportunities herein described.

RESOLUTION CHAPTER 120

Assembly Joint Resolution No. 36—Relative to pest containment and quarantine facilities.

[Filed with Secretary of State September 22, 1993.]

WHEREAS, The discovery of a virulent species of whitefly that attacks most crops, continued outbreaks of Mediterranean and Mexican fruit flies in many parts of the state, extensive damage to graperoot stock by phylloxera, and the imminent arrival of Africanized honey bees join a growing list of pests and diseases that threaten the long-term health and economic vitality of California agriculture; and

WHEREAS, Farmers in California and across the United States are faced with the wholesale loss of many of the synthetic pesticides and chemicals that they have relied upon for control and eradication of pests; and

WHEREAS, Recent studies of available pest management alternatives conducted by the University of California and others reveal that economically viable and environmentally compatible

alternatives are not yet available for many pesticides and chemicals; and

WHEREAS, Insect and microbial pests are showing increased resistance to many of the compounds which remain on the market; and

WHEREAS, Research into promising new pest management technologies and strategies has met with some success over the past decade, most notably in the areas of integrated pest management, biological control, and bioengineering; however, nothing short of a major expansion and acceleration of research focusing on long-range solutions is required; and

WHEREAS, California agriculture is not only in danger of losing the ongoing battle against pests with subsequent reductions in the quality of food and fiber produced, but could see access to many foreign markets closed or severely restricted with significant negative impacts to the state's economy; and

WHEREAS, The Conference Report from the United States House and Senate Agricultural Appropriations Subcommittees for the 1991 fiscal year, in response to the challenges cited above, directed the United States Department of Agriculture (USDA) to conduct a study of alternative pest management containment and quarantine facility needs in California; and

WHEREAS, A USDA facility study panel visited the Davis and Riverside campuses of the University of California in June 1991 and concluded their report with the recommendation that construction of these facilities "could have a significant [positive impact on U.S. agriculture"; and

WHEREAS, The University of California, in cooperation with the USDA, the Department of Food and Agriculture, commodity groups, and other interested parties, is proposing the construction of modern, environmentally secure, alternative pest management containment and quarantine facilities at the Riverside and Davis campuses; and

WHEREAS, These modern containment and quarantine facilities, once operational, would support a comprehensive, integrated program designed to draw upon the breadth of university, state, and federal expertise within California and the nation; and

WHEREAS, Construction of the proposed facilities would provide significant, long-term benefits to growers, ranchers, environmentalists, and consumers as a result of research leading to reduced applications of pesticides and other chemicals and acceptance and expanded use of biological control agents, genetically engineered organisms, and other "cutting-edge" technologies; and

WHEREAS, The research conducted in these facilities would be in accordance with the agricultural pest quarantine regulations and restrictions enforced by the Department of Food and Agriculture and the USDA; and

WHEREAS, These facilities would conduct research that serves

the interests of agriculture in California as its foremost purpose; and

WHEREAS, The combined resources of this federal-state partnership would permit a focused, mission-oriented research program on a scale not otherwise possible; and

WHEREAS, This federal-state partnership for agricultural research has led to significant breakthroughs and advances over the past century to the benefit of every American consumer; and

WHEREAS, This research also has helped build an export industry that generates billions of dollars annually in net income to the economy of the United States; and

WHEREAS, The Congress already has provided funding in the USDA-Cooperative State Research Service budget for the 1992 and 1993 fiscal years for predesign work associated with the proposed facilities at the Davis and Riverside campuses; and

WHEREAS, This funding has been matched by the University of California; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Congress and the President of the United States are respectfully memorialized to support the construction of modern, state-of-the-art, alternative pest management containment and quarantine facilities in California; and be it further

Resolved, That, beginning in the 1994 fiscal year, the Congress provide construction funds on a cost-share basis with the State of California for a 21,400 assignable square foot laboratory and support facility at the University of California, Riverside, to accelerate research leading to the development of biological and other natural controls for the whitefly and other pests; and be it further

Resolved, That, beginning in the 1994 fiscal year, the Congress provide construction funds on a cost-share basis with the State of California for a 40,000 assignable square foot containment and quarantine facility at the University of California, Davis, that will support research into environmentally compatible pest management strategies, including biological control, bioengineering, genetically altered organisms, and other promising biotechnology applications; and be it further

Resolved, That Congress appropriate adequate funds, beginning in the 1994 fiscal year, to allow construction to be sequenced, with the biological control laboratory at Riverside proposed for completion by the 1996 fiscal year and the biological control, biotechnology, and bioengineering containment facility at Davis proposed for completion during the 1997 fiscal year; 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 Majority Leader of the United States Senate, and to the United States Secretary of Agriculture.

RESOLUTION CHAPTER 121

Assembly Joint Resolution No. 48—Relative to the Juaneno Band of Mission Indians, Acjachemen Nation.

[Filed with Secretary of State September 22, 1993.]

WHEREAS, The Juaneno Band of Mission Indians, Acjachemen Nation, whose villages were spread out over their aboriginal territory, throughout Orange County, from the Pacific Ocean to the West, to parts of Los Angeles County to the North, to parts of Riverside County to the East, and to parts of Camp Pendleton to the South; and

WHEREAS, Archeological reports through carbon dating have shown the Juaneno Band of Mission Indians, Acjachemen Nation, to be in existence dating back 10,000 years in Orange County; and

WHEREAS, The Juaneno Band of Mission Indians were known as the Acjachemen Nation long before the expansion of the Spanish Empire in 1769 into their ancestral homeland, usurping their lands, their religion, and adversely affecting the well-being of their people; and

WHEREAS, The documented descendants of the Juaneno Band of Mission Indians, Acjachemen Nation, whose ancestors were baptized at the Mission San Juan Capistrano consist of over 4,500 tribal members registered with the Bureau of Indian Affairs; and

WHEREAS, Conservatively over 7,000 Juanenos have continued to live in and around Orange County and the Mission San Juan Capistrano; and

WHEREAS, By an error of an Indian agent in not reporting the Juaneno Band of Mission Indian's, Acjachemen Nation, existence in the 1880's, the Juaneno Band of Mission Indians, Acjachemen Nation, were removed from the records in Washington, D.C.; and

WHEREAS, Without being informed or consulted, the Juaneno Band of Mission Indian's, Acjachemen Nation, official existence was terminated; and

WHEREAS, The Juaneno Band of Mission Indians, Acjachemen Nation, exercising great patience, with continued hope and through their own funding and means have toiled to regain recognition of the existence of their tribe for over 30 years through the Bureau of Indian Affairs-Federal Recognition Processing; and

WHEREAS, Juaneno Band of Mission Indians, Acjachemen Nation, is recognized as the aboriginal tribe of Orange County by the Tribal Chairmen's Association of Recognized Tribes; 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 support and declare that the Juaneno Band of Mission Indians, Acjachemen Nation, to be the aboriginal tribe of Orange County; 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 122

Assembly Joint Resolution No. 53—Relative to Norton Air Force Base.

[Filed with Secretary of State September 22, 1993.]

WHEREAS, The Norton Air Force Base in San Bernardino, California, is on the United States Base Closure and Realignment Commission's list of military bases recommended for closure; and

WHEREAS, The closing of Norton Air Force Base may result in a devastating loss or more than 9,000 jobs in the San Bernardino area; and

WHEREAS, In September 1993, the Department of Defense will name a limited number of new Defense Finance and Accounting Service centers to be located throughout the country; and

WHEREAS, As the "accounting firm" for the Department of Defense, the Defense Finance and Accounting Service has taken over responsibility of installation-level accounting and reporting for all general funds, the Defense Business Operations Fund, revolving funds, trust funds, accounts payable, accounts receivable, billings, debt management, cash accounting, funds authentication, and certain managerial accounting functions; and

WHEREAS, The Norton Air Force Base site is ideally suited for the location of a Defense Finance and Accounting Service center; and

WHEREAS, The existing Norton Air Force Base infrastructure could easily be adapted for Defense Finance and Accounting Service center use; and

WHEREAS, A Defense Finance and Accounting Service center at Norton Air Force Base would provide highly cost-effective service and support of Department of Defense activities on the West Coast and Hawaii; and

WHEREAS, Preliminary studies indicate that a minimal expense of approximately $4 million would be required to establish a Defense Finance and Accounting Service center at Norton Air Force Base and that this initial startup cost would be offset by reduced severance payouts; and

WHEREAS, With a Defense Finance and Accounting Service center at Norton Air Force Base serving as an "anchor" tenant and employing between 3,000 and 4,000 people, its siting would begin the prompt conversion of Norton Air Force Base prior to operational

closure; and

WHEREAS, A Defense Finance and Accounting Service center at Norton Air Force Base would have the added benefit of encouraging other new businesses to locate there; and

WHEREAS, Norton Air Force Base was the only California military facility considered earlier this year as one of 20 finalists for the selection of a new Defense Finance and Accounting Service center; 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 President and Congress of the United States and the Secretary of the Department of Defense to designate the Norton Air Force Base as a location for a Defense Finance and Accounting Service center; 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 the United States Department of Defense.

RESOLUTION CHAPTER 123

Senate Joint Resolution No. 26—Relative to community development financial institutions.

[Filed with Secretary of State September 27, 1993.]

WHEREAS, Many of the nation's urban and rural communities face critical social and economic problems arising from insufficient growth due to a lack of investment and equity capital; and

WHEREAS, Approximately 12.5 percent of California's total population lives under the federal poverty line; and the state's unemployment rate is well above the nation's average (6.8 percent) at 9.8 percent; and

WHEREAS, A distressed community is a geographically contiguous area characterized by high unemployment; by an average income level significantly below the median for surrounding communities; by a lag in growth of per capita income; by poor or insufficient housing; and by a scarcity of employment training, education, or vocational facilities; and

WHEREAS, Distressed neighborhoods generally lack access to equity capital which effectively results in a pattern of exclusionary underwriting and community disinvestment; and

WHEREAS, There is an urgent need for California to espouse initiatives and programs to foster the development and proliferation of indigenous business; to assist businesses in providing supplemental

services, such as job training or child care; and to enlist the resources of the private sector in the work of revitalizing distressed communities; and

WHEREAS, Permanent, self-sustaining neighborhood renewal results from creating an environment where private investors inside and outside the neighborhood are confident their investments will be reciprocated and rewarded as healthy neighborhood dynamics are restored; and

WHEREAS, Indigenous, community-based financial institutions, such as community development banks, community development credit unions, community development corporations, and community development loan funds, play a significant role in identifying and responding to community needs; and

WHEREAS, A community development financial institution is a financial catalyst which utilizes its capital assets to serve dual purposes. First, it preserves the fiscal integrity of its operations and the financial interests of its investors, depositors, and customers, by pursuing profitable and prudent enterprise. Second, it is focused on rebuilding the distressed communities in which they are chartered to operate and where their depositors live; and

WHEREAS, A community development financial institution can, beyond its lending capacity, coordinate an array of real estate, venture capital, technical assistance, human resource, or other community development tools to enhance a distressed region's economic viability and impact, control risk, and otherwise undertake complementary activities which create a positive, safer environment for private investment; and

WHEREAS, Existing development banking institutions, such as South Shore Bank (Chicago, Illinois), Southern Development Bancorporation (Arkadelphia, Arkansas), Center for Community Self Help (Durham, North Carolina), and Community Capital Bank (Brooklyn, New York), with a primary mission of promoting community development have established a successful precedent by demonstrating their ability to promote revitalization and are appropriate models for restoring economic stability and growth in distressed communities and neighborhoods; and

WHEREAS, The President of the United States has proposed legislation creating the Community Development Banking and Financial Institutions Act of 1993, which proposes to build a network of the aforementioned community development financial institutions (CDFIs) through the creation of a $382 million federal fund to provide new and existing CDFIs with capital, technical, and training assistance; and

WHEREAS, Accounting for the leveraging capability of CDFIs, the United States Treasury Department conservatively estimates that the Community Development Banking and Financial Institutions Act of 1993 could result in between $1 and $1.6 billion in new credit availability for low- and moderate-income communities and create between 20,000 and 50,000 new jobs; now, therefore, be

it

Resolved by the Senate and Assembly of the State of California, jointly, That, in order to restore and maintain California's economic progress, and to encourage the accessibility of California's distressed neighborhoods to equity capital, the Legislature of the State of California endorses the proposal of the President of the United States and all other efforts to establish the aforementioned community development financial institutions; and be it further

Resolved, That the Senate and the Assembly of the State of California respectfully request the Congress of the United States to support and pass the Community Development Banking and Financial Institutions Act of 1993 in order to establish a network of these CDFIs; 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 of the United States, to each Senator and Representative from California in the Congress of the United States, to the Chairperson of the United States Senate Committee on Banking, Housing, and Urban Affairs, and to the Chairperson of the United States House of Representatives Committee on Banking, Finance, and Urban Affairs.
